Merchant Shipping Act

Principal Act

Act. No. 1935-09

Commencement 27.6.1935
Assent 27.6.1935

Amending enactment	Relevant current provisions	Commencement date
Act. 1950-11	s. 162(2)	
1950-17	ss. 2, 181-185, 193(1)	
1951-12	ss. 122(1), 123(1)	
1952-16	–	
1954-19	ss. 14-15, 18(1)	
1960-13	s. 221(1)	
1960-37	ss. 167, 180(3), 189, 192, 203	
1962-20	ss. 12(1), 57-61, 224	
1965-17	ss. 68(1), 92(1), 102	
1969-06	s. 184(3)-(4)	
Notice of 1.8.1969	Sch. 1	
LN. 1971/053	s. 184(2)	
1975/112	–	
1976/122	–	
1978/014	–	
1979/073	–	
1979/103	Sch. 1	
1980/066	–	
Act. 1981-03	s. 45(1)	
LN. 1981/067	Sch. 1	
1982/038	Sch. 1	
Act. 1983-48	ss. 2(1), 42(1), 100	
1984-15	s. 221A	10.12.1984
LN. 1987/061	Sch. 1	19.3.1987
Act. 1987-04	ss. 49(6), 204A, 222A, Sch.1	30.7.1987
1988-02	ss. 2-3, 3A-3H, 4-5, 7-11, 20, 29, 36, 42, 53, 56, 80-81, 90-101, 101A, 121-132-134, 141, 204, 204A, 208, 223-225, Schs. 3-4	17.6.1988
1988-19	ss. 204A-204I	24.11.1988
1990-13	ss. 3H, 33, 35, 101B-101E, 142A, 204, Sch. 3	3.5.1990
1995-12	ss. 204A-204I, Sch. 1	1.12.1997
1998-18	ss. 153, 171A, 174(4), 176(2A), Sch. 5.	2.4.1998
1999-10	ss. 132A-132R, Sch. 1A	25.3.1999
2002-24	ss. 2(1), 3A-3H, 132A- 132R, 181(g)(h), 183-184, 223A. Schs. 1A, 3	1.3.2003
2004-36	s. 2(1)	29.11.2004
2007-17	ss. 5(1)-(2), 6, 7(1)-(2), 8(2), 9, 13(1)-(2), (4), 16, 27(1), 28, 31(1), 39(1), 40(2)-(3), 56, 57(1)-(2),	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

	65, 68(1), 69(2), 70(1), 71, 72(2), 73(1), 75(1), 76(1)-(2), 77(1)-(2), 78(1), 84(1)-(2), 85(1)-(2), 101A(3)-(4), 102, 105(3), 106, 109(1), 116(1)-(3), (6), 117(3), 118(1)-(2), 119(1), 120(3), (6), 122(2), 136(1), 137(1)-(2), (5)-(6), (8), 139-140, 142(1), (3), 144(1), 145, 146(1)-(2), 149, 150(5)-(7), 152, 158(2), 164(2), 165(1), 173(3), 177(2), 178(1), (3), 179(1)-(2), 180(1), 181, 182(1), 188(5)-(6), 204(1), 206, 212, 213(1), 213(2), 214(1)-(3), (5), 216(1), 218, 220, 222(2), 223, 224(1)-(3), 225(3)-(5)	14.6.2007
LN. 2015/070	ss. 179A-179T, Sch. 6	16.4.2015
Act. 2016-09	ss. 180-203, 221A	10.3.2016
2022-17	ss. 49(5), 179H(5), 179P(5)-(6)	23.12.2022
2023-11	ss. 2(1), 167(1)(b), (2)(a)-(b), (ii), (3)-(4)	15.1.2024

Notes: *Rules of court made under s.148 and under other powers appear under the title Supreme Court.*

Delegation to the Captain of the Port of the powers of the Governor under s.220 by notice of 16 March 1964 appears under the title Interpretation and General Clauses.

EU Legislation/International Agreements involved:
Nairobi International Convention on the Removal of Wrecks, 2007

English sources
Merchant Shipping Act 1894 (57 & 58 Vict. c.60)
Merchant Shipping Act 1897 (60 & 61 Vict. c.59)
Wireless Telegraphy Act 1904 (4 Edw.7 c.24)
Merchant Shipping Act 1906 (6 Edw.7 c.48)
Merchant Shipping (Seaman's Allotment) Act 1911 (1 & 2 Geo.5 c.8)
Pilotage Act 1913 (2 & 3 Geo.5 c.31)
Merchant Shipping (Wireless Telegraphy) Act 1919 (9 & 10 Geo.5 c.38)
Merchant Shipping Acts Amendment Act 1923 (13 & 14 Geo.5 c.38)
Merchant Shipping (International Labour Conventions) Act 1925 (15 & 16 Geo.5 c.42)
Criminal Justice Act 1925 (15 & 16 Geo.5 c.86)
Merchant Shipping (Line–throwing Appliance) Act 1923 (18 & 19 Geo.5 c.40)
Merchant Shipping (Safety and Load Line Conventions) Act 1932 (22 & 23 Geo.5 c.9)
Milford Haven Conservancy Act 1958 (6 & 8 Eliz.2 c.23)

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.

PART I.
MASTERS AND SEAMEN**.**

Certificates of Competency.

3. Certificates of competency to be held by officers of ships.
4. Certification of coswains, etc.
5. Examination for certificates of competency.
6. Fees on examination.
7. Grant of certificates on passing examination.
8. Form and record of certificate.
9. Loss of certificate.
10. Production of certificates of competency.
11. Forgery of certificate of competency.

Engagement of Seamen.

12. Agreements with crew.
13. Form, period, and conditions of agreements with crew.
14. Special provisions as to agreements with crew of foreign-going ships.
15. Special provisions as to agreements with crew of home-trade ships.
16. Changes in crew of foreign-going ship to be reported.
17. Delivery of agreements with crew of foreign-going ship.
18. Delivery of agreements with grew of home-trade ship.
19. Copy of agreement to be made accessible to crew.
20. Forgery of agreements with crew.
21. Alterations in agreements with crew.
22. Seamen not to be bound to produce agreement.
23. Engagement of seamen in colonial and foreign ports.
24. Rating of seamen.
25. Notice of disrating of seamen.

Discharge of seamen.

26. Discharge before the superintendent.
27. Certificate of discharge and return of certificate to officer on discharge.
28. Reports of seaman’s character.
29. False or forged certificate of discharge or report of character.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Payment of Wages.

30. Payment of wages before superintendent.
31. Master to deliver account of wages.
32. Deductions from wages of seamen.
33. Account of wages under crew agreement.
34. Time of payment of wages for home-trade ships.
35. Payment of seamen's wages.
36. Decision of questions by superintendent.
37. Power of superintendent to require production of ship's papers.
38 Rule as to payment of British seamen in foreign money.

Advance and Allotment of Wages.

39. Advance notes restricted.
40. Regulations as to allotment notes.
41. Further provisions as to allotment notes.
42. Right of suing on allotment notes.

Rights of seamen in respect of Wages.

43. Right to wages, etc., when to begin.
44. Right to recover wages and salvage not to be forfeited.
45. Wages not to depend on freight.
46. Wages on termination of service by wreck or illness.
47. Wages not to accrue during refusal to work or imprisonment.
48. Forfeiture of wages, etc., of seaman when illness caused by his own default.
49. Expenses of medical attendance in case of injury or illness.
50. Costs of procuring punishment may be deducted from wages.
51. Compensation to seamen improperly discharged.
52. Restriction on sale of, and charge upon, wages.
53. Summary proceedings for wages.
54. Remedies of master for wages, disbursements and other liabilities.
55. Forgery of documents, etc., for purpose of obtaining property of deceased seamen.
56. Appointment of medical inspectors,, etc., and fees for services thereof.

Official Logs.

57. Official logs to be kept and to be evidence.
58. Entries required in official log-book.
59. Offences in respect of official logs.
60. Delivery of official logs to the superintendent.
61. Official logs to be sent to the superintendent in case of transfer of ship or of loss.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Provisions as to Discipline.

62. Misconduct endangering life or ship.
63. Penalty on stowaways, and discipline of stowaways and seamen carried under compulsion.
64. Documents to be handed over to successor on change of master.
65. Application of Part I.

PART II.
PASSENGER SHIPS.

66. Interpretation of Part II.
67. Passengers landed or embarked by means of tenders.
68. Annual survey of passenger steamers.
69. Mode of survey and declaration of survey.
70. Transmission of declaration.
71. Issue of passenger steamer's certificate.
72. Appeal to court of survey.
73. Transmission of certificate.
74. Fees for certificate.
75. Duration of certificates.
76. Cancellation of certificates.
77. Alteration of ships and additional surveys.
78. Delivery up of certificate.
79. Posting up of certificate.
80. Penalty for forgery of a certificate or declaration.
81. Penalty for carrying passengers in excess.
82. Overcrowding of passenger steamers
83. Penalty on master or owner for non-compliance with provisions as to passenger steamers.
84. Exemption from survey, etc., of passenger steamer in certain cases.

General Equipment of Passenger Steamers.

85. Equipment of passenger steamers with compasses, deck shelters and safety appliances.
86. Prohibition of increasing weight on safety valve.

Keeping Order in Passenger Steamers.

87. Offences in connection with passenger steamers.
88. Power to exclude drunken passengers on home-trade passenger steamers.

Returns of Passengers.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

89. Return to be furnished by masters of ships as to passengers.

PART III.
WIRELESS TELEGRAPHY ON SHIPS.

90. Interpretation.
91. Wireless telegraphy requirements.
92. Wireless telegraphy rules.
93. Offences.
94. Duty of persons in charge of wireless stations.
95. Inspection of ships to see that provisions relating to wireless telegraphy are complied with.
96. Survey of ships other than passenger steamers by wireless telegraphy surveyors.
97. Issue of wireless telegraphy certificates and wireless telegraphy exemption certificates.
98. No proceeding to sea without certificate.
99. Miscellaneous provisions as to wireless certificates.
100. Provisions of Act in addition to existing provisions.
101. Application of Part III to ships not registered in Gibraltar.

PART IV.
SAFETY AT SEA.

Life-Saving Appliances.

101A. Convention for the Safety of Life at Sea.
101B. Saving.
101C. Owner and master liable in respect of dangerously unsafe ship.
101D. Owner liable for unsafe operation of ship.
101E. Conduct endangering ships, structures or individuals.
102. Rules as to life-saving appliances.
103. Duties of owners and masters as to carrying life-saving appliances.
104. Penalty for breach of rules.
105. Survey of ship with respect to life-saving appliances.
106. Power to apply rules as to life-saving appliances to foreign ships in certain cases.

General Equipment.

107. Adjustment of compasses and provision of hose.
108. Placing undue weight on safety valve.
109. Provision of signals of distress and inextinguishable lights.

Dangerous Goods.

110. Restrictions on carriage of dangerous goods.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

111. Penalty for misdescription of dangerous goods.
112. Power to deal with goods suspected of being dangerous.
113. Forfeiture of dangerous goods improperly sent or carried.
114. Saving for other enactments relating to dangerous goods.
115. Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.
116. Power to detain unsafe ships, and procedure for detention.
117. Liability for costs and damages.
118. Power to require from complainant security for costs.
119. Application to foreign ships of provisions as to detention.
120. Survey of ships alleged by seamen to be unseaworthy.

PART V.
PROVISIONS RELATING TO LOAD LINES.

121. Implementation of Merchant Shipping (Load Lines) Act 1967, etc.
122. Exemptions.
123 - 132. *Revoked*

PART VI.
SPECIAL PROVISIONS RELATING TO
PART V.

133. Notice to be given to consular officer where proceedings taken in respect of foreign ships.
134. Cost of detaining ships.

PART VII.
SPECIAL SHIPPING INQUIRIES
AND COURTS.

Inquiries and Investigations as to Shipping Casualties.

135. General power of inquiry or investigation into shipping casualties and conduct of officers.
136. Preliminary inquiry into shipping casualties.
137. Formal investigation of shipping casualties.
138. Method of conducting formal investigations.
139. Inquiry in case of loss of life from fishing vessel's boat.

Power as to Certificates of Officers and Others.

140. Power of Minister responsible for shipping as to certificate.
141. Power of court of investigation or inquiry as to certificate.
142. Inquiry into conduct of certificated officer.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

142A. Power to summon witness to inquiry.
143. Removal of master by Supreme Court.
144. Delivery of certificate cancelled or suspended.
145. Power of Minister responsible for shipping to restore certificate.

Rehearing of Investigations and Inquiries.

146. Rehearing of inquiries and investigations.

Supplemental Provisions as to Investigations and Inquiries.

147. Appeal from decision on investigation as to shipping casualties.
148. Rules of court.

Court of Survey.

149. Constitution of court of survey.
150. Power and procedure of court of survey.
151. Rules for procedure of court of survey, etc.

Payments to Officers of Courts.

152. Payments to officers of courts.

PART VIII.
WRECK AND SALVAGE.

Vessels in Distress.

153. Interpretation.
154. Duty of receiver where vessel in distress.
155. Powers of receiver in case of vessels in distress.
156. Power of receiver to suppress plunder and disorder by force.
157. Exercise of powers of receiver in his absence.
158. Examination in respect of ships in distress.

Dealing with Wreck.

159. Provision as to wreck found in Gibraltar.
160. Penalty for taking wreck at time of casualty.
161. Notice of wreck to be given by receiver.
162. Claims of owners to wreck.
163. Immediate sale of wreck by receiver in certain cases.
164. Rights of Crown to and disposal of unclaimed wreck.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

165. Removal of wreck by receiver and recovery of expenditure.
166. Powers of removal to extend to tackle, cargo, etc.
167. Protection of crown interests in wrecks.

Offences in Respect of Wreck.

168. Taking wreck to foreign port.
169. Interfering with wrecked vessel or wreck.
170. Summary procedure for concealment of wreck.

Salvage.

171. Salvage payable for saving life.
171A. Convention on Salvage to have force of law.
172. Salvage of cargo or wreck.
173. Valuation of property by receiver.
174. Detention of property liable for salvage by a receiver.
175. Sale of detained property by receiver.
176. Apportionment of salvage under £200 by receiver.

Appointment of Receiver of Wreck.

177. Appointment of receiver of wreck and his deputy.

Fees of Receiver of Wreck.

178. Receivers' fees.

Duties on Wreck.

179. Provisions as to duty on wrecked goods.

PART VIIIA.
WRECK REMOVAL CONVENTION.

Preliminary

179A. Scope of Part: Wreck Removal Convention.
179B. Interpretation of Part.

Report, marking and removing

179C. Wreck reports.
179D. Locating and marking wrecks.
179E. Removal by registered owner.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

179F. Conditions about removal.
179G. Removal in default.
179H. Liability for costs.
179I. Limitation period.

Insurance

179J. Wreck removal insurance.
179K. Failure to insure.
179L. Detention of ships.
179M. Production of certificates.
179N. Issue of certificates.
179O. Cancellation of certificates.
179P. Third party rights against insurers.
179Q. Electronic certificates.
179R. Government ships.
179S. Saving.
179T. Regulations.

PART IX.
PILOTAGE.

180-203 *Repealed.*

PART X.
EMPLOYMENT OF ALIENS IN
BRITISH SHIPS.

204. Aliens as masters of British ships.

PART XI.
LEGAL PROCEEDINGS.

205. Prosecution of offences.
206. Legal proceedings.
207. General penalty.
208. Enforcing detention of ship.
209. Sums ordered to be paid leviable by distress on ship.
210. Service of documents.

PART XII.
SUPPLEMENTAL.

General Control.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

211. Superintendence of merchant shipping by Port Department.
212. Minister responsible for shipping may prescribe forms.
213. Offences as to use of forms.

Surveyors of Ships.

214. Appointment of surveyors.
215. Power of survey or for purpose of survey of ships.
216. Returns by surveyors to the Minister responsible for shipping.

Obstruction of Inspectors.

217. Penalty for obstructing inspectors in the execution of their duty.

General.

218. Application of Act to ships propelled by electricity.
219. Exemption of H.M.'s ships, etc.
220. Dispensing powers of the Minister responsible for shipping.
221. Application of the Merchant Shipping Acts.
221A. *Repealed.*
222. Disposal of fees, etc.
222A. *Repealed*.
223. Rule making powers.
223A. Regulations.
224. Power of Minister responsible for shipping to make rules, etc.

PART XIII.
MARPOL CONVENTION.

225. Implementation of The Merchant Shipping (Prevention of Oil Pollution) Regulations 1983

SCHEDULE 1.
Fees Payable.

SCHEDULE 1A.
containing Annexes I to VII to Council Directive 95/21/EC as amended by Commission Directive 98/42/EC.

SCHEDULE 2.
Special Measurements for Passenger Ships plying not south of a line joining Europa Point and Carnero Point.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

SCHEDULE 3.
Modifications.

SCHEDULE 4.
Alteration of penalties

SCHEDULE 5.
International Convention on Salvage, 1989.

SCHEDULE 6
Nairobi International Convention on The Removal of Wrecks, 2007

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

AN ACT TO AMEND AND CONSOLIDATE THE LAW RELATING TO MERCHANT SHIPPING.

Short title.

1. This Act may be cited as the Merchant Shipping Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires,–

"Admiralty pilot" means any officer of the Royal Navy and any other person in the service of the Crown acting as a pilot under the orders of the Senior Naval Officer or of the officer performing the duties of Queen's Harbour Master at Gibraltar;

"Bay of Gibraltar" means those waters commonly known as the Bay of Gibraltar and limited on the south by an imaginary straight line joining Europa Point and Carnero Point;

"foreign-going ship" includes every ship employed in trading or going between Gibraltar and some place or places situate beyond the following limits, that is to say, the continent of Europe between Lisbon and Valencia inclusive, and the continent of Africa between Agadir and Oran inclusive;

"home-trade ship" includes every ship employed in trading or going between Gibraltar and some place or places situate within the following limits, that is to say, the continent of Europe between Lisbon and Valencia inclusive, and the continent of Africa between Agadir and Oran inclusive;

"home-trade passenger ship" means every home-trade ship employed in carrying passengers;

"King's Harbour Master" means the person appointed as the King's Harbour Master under the Admiralty Waters and Naval Base (Gibraltar) Act 2022;

"Maritime Administrator" means the person appointed under section 3 of the Gibraltar Merchant Shipping (Safety, etc.) Act, 1993;

"master" includes every person (except a pilot) having command or charge of any ship;

"Merchant Shipping Acts" mean the Acts of Parliament which may be cited as the Merchant Shipping Acts, 1894 to 1986, and any Acts repealing or amending the same;

"Minister" means the Minister for the Port and Shipping;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

"passenger" includes any person carried in a ship other than the master and crew, and the owner, his family and servants, and persons on board the ship either in pursuance of the obligation laid upon the master to carry shipwrecked, distressed or other persons, or by reason of any circumstances which neither the master nor the owner nor the charterer (if any) could have prevented or forestalled;

"pilot" means any person not belonging to a ship who has the conduct thereof; "Pilotage Administration Charge" means the charge payable ' to the Pilotage Authority to defray the expenses thereof;

"Pilotage Authority" means the Authority established under section 182; "Pilotage Fund" means the Fund established under section 184;

"seaman" includes every person (except masters, pilots and apprentices duly indentured and registered), employed or engaged in any capacity on board any ship;

"superintendent" means the Captain of the Port, his deputy, clerks or other officers for the time being performing in Gibraltar the duties of a superintendent under the Merchant Shipping Acts or this Act;

"tons" and "tonnage" mean respectively tons and tonnage calculated in accordance with the rules for the time being in force for the measurement of ships under the Merchant Shipping Acts;

"vessel" includes any ship or boat, or any other description of vessel used in navigation;

"wages" includes emoluments.

(2) Any reference to failure to do any act or thing shall include a reference to refusal to do that act or thing.

(3) In this Act references to a ship constructed before or after any date shall be construed as references to a ship the keel of which has been laid before or after that date, as the case may be.

PART I.
MASTERS AND SEAMEN.

Certificates of Competency.

Certificates of competency to be held by officers of ships.

3.(1) to (3) *Revoked.*

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(4) Notwithstanding any other provisions of this Act, a British ship carrying passengers and not proceeding outside the limits of the Bay of Gibraltar, shall be deemed to be duly provided with officers in pursuance of this section if it is provided with a duly certified coxswain instead of a master, and a duly certified engine driver of a steam or motor launch, as the case may be, instead of an engineer, and in such cases the provisions of this Act shall apply mutatis mutandis to coxswains and engine drivers as they apply to masters and engineers.

Certification of coxswains, etc.

4.Subject to sections 5, 6, 7 and 8, certificates may be grated under this Act to coxswains and engine drivers of motor launches.

Examination for certificates of competency.

5.(1) For the purpose of granting certificates under this Act to persons desirous of obtaining the same, examinations shall be held at such places as the Minister responsible for shipping may direct.

(2) The Minister responsible for shipping may appoint times for the examinations and may appoint, remove and re-appoint examiners to conduct the same, and determine the remuneration of those examiners, and may regulate the conduct of the examinations and the qualification of the applicants and may do all such acts and things as he may think expedient for the purpose of the examinations.

Fees on examination.

6. An applicant for examination shall pay into the Treasury such fees, not exceeding those specified in Table K of Schedule 1, as the Minister responsible for shipping may direct.

Grant of certificates on passing examination.

7.(1) The Minister responsible for shipping shall, subject as hereinafter mentioned, cause to be delivered to every applicant who is duly reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability and general good conduct on board ship, such a certificate under section 4 as the case requires.

(2) The Minister responsible for shipping may in any case in which a report appears to him to have been unduly made, remit the case either to the examiners who made the report or to any other examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting a certificate.

Form and record of certificate.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

8.(1) All certificates under section 4 shall be made in duplicate, one part to be delivered to the person entitled to the certificate, and one to be preserved.

(2) Such last-mentioned part of the certificate shall be preserved, and a record of certificates under section 4 and the suspending, cancelling or altering of the certificates and any other matter affecting them shall be kept, in such manner as the Minister responsible for shipping may direct, by the Captain of the Port.

(3) Any such certificate and any record under this section shall be admissible in evidence in manner provided by the Merchant Shipping Acts.

Loss of certificate.

9. If a person to whom a certificate under section 4 has been granted proves to the satisfaction of the Minister responsible for shipping that he has, without fault on his part, lost or been deprived of a certificate already granted to him, the Minister responsible for shipping shall, and in any other case may, upon payment of such fee (if any) as he may direct, cause a copy of the certificate to which, by the record kept in pursuance of this Act, he appears to be entitled, to be certified by the Captain of the Port, and to be delivered to him, and a copy purporting to be so certified shall have all the effect of the original.

Production of certificates of competency.

10.(1) The master of a foreign-going ship –

(a) on signing the agreement with the crew before the superintendent shall produce to him the certificates of competency which the master, mates and engineers of the ship are by the Regulations mentioned in sections 3A and 3B required to hold; and

(b) in the case of a running agreement shall also, before the second and every subsequent voyage, produce to the superintendent the certificate of competency of any mate or engineer then first engaged by him who is required by the Regulations mentioned in sections 3A and 3B to hold a certificate.

(2) The master or owner of every home-trade passenger ship except ships exclusively employed in trading in the Bay of Gibraltar shall produce to the superintendent within twenty-one days after the 30th day of June and the 3lst day of December in every year the certificates of competency which the master, mates and engineers of the ship are by the Regulations mentioned in sections 3A and 3B required to hold.

Forgery of certificate of competency.

11. A person who –

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered, any certificate of competency or a certificate under section 4 , or an official copy of any such certificate; or

(b) makes, assists in making, or procures to be made, any false representation for the purpose of procuring either for himself or for any other person a certificate of competency or a certificate under section 4; or

(c) fraudulently uses a certificate or copy of a certificate of competency or a certificate under section 4 which has been forged, altered, cancelled or suspended, or to which he is not entitled; or

(d) fraudulently lends his certificate of competency or a certificate under section 4 or allows it to be used by any other person,

is guilty of an offence and liable on summary conviction to imprisonment for 6 months and a fine of £2,000 and on a conviction on indictment to imprisonment for five years and a fine**.**

Engagement of Seamen.

Agreements with crew.

12.(1) The master of every British ship and of every ship of a foreign country which has no consular officer resident in Gibraltar, shall enter into an agreement (in this Act called an agreement with the crew) in accordance with this Act with every seaman whom he carries to sea from Gibraltar:

Provided that this section shall not apply to the master of any ship of less than twenty-five tons exclusively employed in trading within thirty miles of Gibraltar.

(2) If a master of a ship carries any seaman to sea without entering into an agreement with him in accordance with this Act, the master in the case of a foreign-going ship, and the master or owner in the case of a home-trade ship, is guilty of an offence and is liable on conviction to a fine of £400.

Form, period, and conditions of agreements with crew.

13.(1) An agreement with the crew shall be in a form approved by the Minister responsible for shipping, and shall be dated at the time of the first signature thereof, and shall be signed by the master before a seaman signs the same.

(2) The agreement with the crew shall contain as terms thereof the following particulars:–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) either the nature, and, as far as practicable, the duration of the intended voyage or engagement, or the maximum period of the voyage or engagement and the places or parts of the world (if any) to which the voyage or engagement is not to extend;

(b) the number and description of the crew, specifying how many are engaged as sailors;

(c) the time at which each seaman is to be on board or to begin work;

(d) the capacity in which each seaman is to serve;

(e) the amount of wages which each seaman is to receive;

(f) a scale of the provisions which are to be furnished to each seaman; and

(g) any regulations as to conduct on board, and as to fines, short allowances of provisions, or other lawful punishment for misconduct which have been approved by the Minister responsible for shipping as regulations proper to be adopted, and which the parties agree to adopt.

(3) The agreement with the crew shall be so framed as to admit of such stipulations, to be adopted at the will of the master and seaman in each case, whether respecting the advance and allotment of wages or otherwise, as are not contrary to law.

(4) If the master of a ship registered at a port out of Gibraltar has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged, and engages single seamen in Gibraltar, those seamen may sign the agreement so made, and it shall not then be necessary for them to sign an agreement in the form approved by the Minister responsible for shipping.

Special provisions as to agreements with crew of foreign-going ships.

14. The following provisions shall have effect with respect to the agreements with the crew made in Gibraltar in the case of foreign-going ships registered either within or without Gibraltar:–

(a) the agreement shall (subject to the provisions of this Act as to substitutes) be signed by each seaman in the presence of the superintendent;

(b) the superintendent shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature;

(c) when the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the superintendent, and the other shall be delivered to the

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

master, and shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship;

(d) where a substitute is engaged in the place of a seaman who duly signed the agreement, and whose services are within twenty-four hours of the ship's putting to sea lost by death, desertion or other unforeseen cause, the engagement shall, when practicable, be made before the superintendent, and, when not practicable, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the substitute, and the substitute shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature;

(e) the agreements may be made for a voyage, or if the voyages of the ship average less than six months in duration may be made to extend over two or more voyages, and agreements so made to extend over two or more voyages are in this Act referred to as running agreements;

(f) running agreements shall not extend beyond the expiration of the period of six months from the date of the agreement, or the first arrival of the ship at Gibraltar after that date, or the discharge of cargo consequent on that arrival;

(g) on every return to Gibraltar before the final termination of a running agreement, the master shall make on the agreement an endorsement as to the engagement or discharge of seamen, either that no engagements or discharges have been made, or are intended to be made before the ship leaves port, or that all those made have been made as required by law, and a master who wilfully makes a false statement in any such endorsement, is guilty of an offence and is liable on conviction to a fine of £400;

(h) the master shall deliver the running agreement so endorsed to the superintendent, and the superintendent shall if the provisions of this Act relating to agreements have been complied with, sign the endorsement and return the agreement to the master;

(i) the duplicate running agreement retained by the superintendent on the first engagement of the crew shall, if the ship is registered in Gibraltar, be deposited at the office of the Captain of the Port, and if the ship is registered in the United Kingdom shall be transmitted to the Registrar General of Shipping and Seamen in London.

Special provisions as to agreements with crew of home-trade ships.

15. The following provisions shall have effect with respect to the agreements with the crew of home-trade ships for which an agreement with the crew is required under this Act:–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) agreements may be made either for service in a particular ship or for service in two or more ships belonging to the same owner, but in the latter case the names of the ships and the nature of the service shall be specified in the agreement;

(b) crews or single seamen may, if the master thinks fit, be engaged before the superintendent in the same manner as they are required to be engaged for foreign-going ships, but if the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon after as possible, cause the agreement to be read and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, and the witness shall attest the signature;

(c) an agreement for service in two or more ships belonging to the same owner may be made by the owner instead of by the master, and the provisions of this Act with respect to the making of the agreement shall apply accordingly;

(d) agreements shall not extend beyond the expiation of the period of six months from the date of the agreement, or the first arrival of the ship at Gibraltar after that date or the discharge of cargo consequent on that arrival.

Changes in crew of foreign-going ship to be reported.

16.(1) The master of every foreign-going ship whose crew has been engaged before the superintendent shall, before finally leaving Gibraltar, sign and send to the superintendent, a full and accurate statement, in a form approved by the Minister responsible for shipping, of every change which takes place in his crew before finally leaving Gibraltar, and that statement shall be admissible in evidence in manner provided by the Merchant Shipping Acts.

(2) A master who fails without reasonable cause to comply with this section, is guilty of an offence and is liable on conviction to a fine of £5.

Delivery of agreements with crew of foreign-going ship.

17. The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at Gibraltar when Gibraltar is her final port of destination or upon the discharge of the crew, whichever first happens, deliver his agreement with the crew to the superintendent, and the superintendent shall give the master a certificate of that delivery, and if the master fails without reasonable cause so to deliver the agreement with the crew, he is guilty of an offence and is liable on conviction to a fine of £400.

Delivery of agreements with crew of home-trade ship.

18.(1) The master or owner of a home-trade ship, except ships exclusively employed in trading in the Bay of Gibraltar, shall within twenty-one days after the expiration of any agreement with the crew made for the ship deliver or transmit to the superintendent such agreement.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) A master or owner who fails without reasonable cause to comply with this section, is guilty of an offence and is liable on conviction to a fine of £400.

Copy of agreement to be made accessible to crew.

19.(1) The master shall at the commencement of every voyage or engagement cause a legible copy of the agreement with the crew, (omitting the signatures), to be posted up in some part of the ship which is accessible to the crew.

(2) A master who fails without reasonable cause to comply with this section, is guilty of an offence and is liable on conviction to a fine of £400.

Forgery of agreements with crew.

20. A person who fraudulently alters, makes any false entry in, or delivers a false copy of, any agreement with the crew, and a person who assists in committing or procures to be committed any such offence, are likewise guilty of offences and liable to a fine of £2,000.

Alterations in agreements with crew.

21. Every erasure, interlineation or alteration in any agreement with the crew (except additions made for the purpose of shipping substitutes or persons engaged after the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or alteration, by the written attestation (if in Her Majesty's dominions) of some superintendent, justice, officer of customs, or other public functionary, or elsewhere, of a British consular officer, or where there is no such officer, of two respectable British merchants.

Seamen not to be bound to produce agreement.

22. In any legal or other proceeding a seaman may bring forward evidence to prove the contents of any agreement with the crew or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Engagement of seamen in colonial and foreign ports.

23.(1) With respect to the engagement of seamen abroad, the following provisions shall have effect:–

Where the master of a ship registered in Gibraltar engages a seaman in any of Her Majesty's dominions other than Gibraltar or at a port in which there is a British consular officer, the provisions of this Act respecting agreements with the crew made in Gibraltar shall apply subject to the following modifications:–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) in any of Her Majesty's dominions the master shall engage the seaman before some officer being either a superintendent within the meaning of the Merchant Shipping Acts or, if there is no such superintendent, an officer of customs;

(b) at any such port having a British consular officer, the master shall, before carrying the seaman to sea, procure the sanction of the consular officer, and shall engage the seaman before that officer;

(c) the officer shall endorse upon the agreement an attestation to the effect that the agreement has been signed in his presence and otherwise made as required by this Act, and also, if the officer is a British consular officer, that it has his sanction, and if the attestation is not made the burden of proving that the engagement was made as required by this Act shall lie upon the master.

(2) A master who fails to comply with this section is guilty of an offence and is liable on conviction to a fine of £400.

Rating of seamen.

24.(1) A seaman shall not be entitled to the rating of A. B., that is to say, of an able-bodied seaman, unless he has served at sea for three years before the mast, but the employment of fishermen in decked fishing vessels registered under the First Part of the Merchant Shipping Act, 1894, shall only count as sea service up to the period of two years of that employment, and the rating of A.B. shall only be granted after at least one year's sea service in a trading vessel in addition to two or more year's sea service on board of decked fishing vessels so registered.

(2) The service may be proved by certificates of discharge, by a certificate of service from the Registrar General of Shipping and Seamen, specifying in each case whether the service was rendered in whole or in part in steam ship or in sailing ship, or by other satisfactory proof.

(3) The superintendent or other officer before whom a seaman is engaged shall refuse to enter the seaman as A.B. on the agreement with the crew unless the seaman gives such satisfactory proof as is required by this section of his title to be so rated, and a seaman who, for the purpose of obtaining a rating as A.B., makes any false statement or false representation, is guilty of an offence and is liable on conviction to a fine of £400.

Notice of disrating of seamen.

25.(1) Where the master of a ship disrates a seaman he shall forthwith enter or cause to be entered in the official log book a statement of the disrating, and furnish the seaman with a copy of the entry, and any reduction of wages consequent on the disrating shall not take effect until the entry has been so made and the copy so furnished.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) Any reduction of wages consequent on the disrating of a seaman shall be deemed to be a deduction from wages within the meaning of sections 31 and 32.

Discharge of Seamen

Discharge before the superintendent.

26.(1) When a seaman serving in a British foreign-going ship, whether registered within or without Gibraltar, is on the termination of his engagement discharged in Gibraltar, he shall, whether the agreement with the crew be an agreement for the voyage or a running agreement, be discharged in manner provided by this Act in the presence of the superintendent.

(2) The master or owner of a ship who acts in contravention of this section, is guilty of an offence and is liable on conviction to a fine of £400.

(3) If the master or owner of a home-trade ship so desire, the seamen of that ship may be discharged in the same manner as seamen discharged from a foreign-going ship.

Certificate of discharge and return of certificate to officer on discharge.

(s.128) 27.(1) The master shall sign and give to a seaman discharged from his ship, either on his discharge or on payment of his wages, a certificate of his discharge in a form approved by the Minister responsible for shipping, specifying the period of his service and the time and place of his discharge, and if the master fails so to do he is guilty of an offence and is liable on conviction to a fine of £400.

(2) The master shall also, upon the discharge of every certificated officer whose certificate of competency has been delivered to and retained by him, return the certificate to the officer, and if without reasonable cause he fails so to do he is guilty of an offence and is liable on conviction to a fine of £400.

Reports of seaman's character.

28. Where a seaman is discharged before the superintendent, the master shall make and sign, in a form approved by the Minister responsible for shipping, a report of the conduct, character and qualifications of the seaman discharged, or may state in such form that he declines to give any opinion upon such particulars, or upon any of them, and the superintendent before whom the discharge is made shall, if the seaman desires, give to him or endorse on his certificate of discharge a copy of such report (in this Act referred to as the report of character).

False or forged certificate of discharge or report of character.

29. A person who–

(a) makes a false report of character under this Act, knowing the same to be false; or

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) forges or fraudulently alters any certificate of discharge or report of character or copy of a report of character; or

(c) assists in committing, or procures to be committed, any of such offences; or

(d) fraudulently uses any certificate of discharge or report of character or copy of a report of character which is forged or altered or does not belong to him,

is guilty of an offence and liable to a fine of £2,000.

Payment of Wages.

Payment of wages before superintendent.

30.(1) Where a seaman is discharged before the superintendent, he shall receive his wages through or in the presence of the superintendent, unless a competent court otherwise direct, and if in such a case the master or owner of a ship pays his wages within Gibraltar in any other manner, he is guilty of an offence and is liable on conviction to a fine of £100.

(2) If the master or owner of a home–trade ship so desires, the seaman of that ship may receive their wages in the same manner as seamen discharged from a foreign-going ship.

Master to deliver account of wages.

31.(1) The master of every ship shall before paying off or discharging a seaman deliver at the time and in the manner provided by this Act a full and true account, in a form approved by the Minister responsible for shipping, of the seaman's wages, and of all deductions to be made therefrom on any account whatever.

(2) The account shall be delivered–

(a) where the seaman is not to be discharged before the superintendent, to the seaman himself not less than twenty-four hours before his discharge or payment off; and

(b) where the seaman is to be discharged before the superintendent, either to the seaman himself at or before the time of his leaving the ship, or to the superintendent not less than twenty-four hours before the discharge or payment off.

(3) The master of a ship who fails without reasonable cause to comply with this section, is guilty of an offence and is liable on conviction to a fine of £100.

Deductions from wages of seamen.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

32.(1) A deduction from the wages of a seaman shall not be allowed unless it is included in the account delivered in pursuance of section 31, except in respect of a matter happening after the delivery.

(2) The master shall during the voyage enter the various matters in respect of which the deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce the book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to that payment.

Account of wages under crew agreement.

33.(1) Subject to subsections (4) and (5), the master of every ship registered in Gibraltar shall deliver to every seaman employed in the ship under a crew agreement an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.

(2) The account shall indicate that the amounts stated therein are subject to any later adjustment that may be found necessary and shall be delivered not later than twenty-four hours before the time of discharge or, if the seaman is discharged without notice or at less than twenty-four hours' notice, at the time of discharge.

(3) If the amounts stated in the account require adjustment the persons who employed the seaman shall deliver to him a further account stating the adjusted amounts; and that account shall be delivered not later than the time at which the balance of his wages is payable to the seaman.

(4) Where subsection (4) or (5) of section 35 applies to the payment of any amount of wages due to a seaman under a crew agreement–

(a) the persons who employed the seaman shall deliver to him an account of the wages payable to him under that subsection and of the deductions subject to which the wages are payable; and

(b) any such account shall be so delivered at the time when the wages are paid to him; and

(c) subsections (1) to (3) of this section shall not apply;

and section 35(10) shall apply for the purposes of this subsection as it applies for the purposes of that section.

(5) Where a seaman is employed under a crew agreement relating to more than one ship any account which under the preceding provisions of this section would be required to be

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

delivered to him by the master shall instead be delivered to him by the persons employing him and shall be so delivered on or before the termination of his employment under the crew agreement.

(6) If a person fails without reasonable cause to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine of £100.

Time of payment of wages for home-trade ships.

34.(1) The master or owner of every home-trade ship shall pay to every seaman his wages within two days after the termination of the agreement with the crew, or at the time when the seaman is discharged, whichever first happens.

(2) If a master or owner fails without reasonable cause to make payment at that time, he shall pay to the seaman a sum not exceeding the amount of two day's pay for each of the days during which payment is delayed beyond that time, but the sum payable shall not exceed ten days' double pay.

(3) Any sum payable under this section may be recovered as wages.

Payment of seamen's wages.

35.(1) Where a seaman employed under a crew agreement relating to a ship leaves the ship on being discharged from it, then, except as provided by or under this Act or any other enactment, the wages due to the seaman under the agreement shall either–

(a) be paid to him in full at the time when he so leaves the ship (in this section and section 31 referred to as the time of discharge), or

(b) be paid to him in accordance with subsections (4) and (5).

(2) If the amount shown in the account delivered to a seaman under section 31 as being the amount payable to him under subsection (1)(a) of this section is replaced by an increased amount shown in a further account delivered to him under section 31(3), the balance shall be paid to him within seven days of the time of discharge; and if the amount so shown in the account delivered to him under section 31(1) exceeds £50 and it is not practicable to pay the whole of it at the time of discharge, nor less than one-quarter of the amount so shown shall be paid to him at that time and the balance within seven days of that time.

(3) If any amount which, under subsection (1)(a) or (2) is payable to a seaman is not paid at the time at which it is so payable the seaman shall be entitled to wages at the rate last payable under the crew agreement for every day on which it remains unpaid during the period of fifty-six days following the time of discharge; and if any such amount or any amount payable by virtue of this subsection remains unpaid after the end of that period it shall carry interest at the rate of 20 per cent per annum.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(4) Where the crew agreement referred to in subsection (1) provides for the seaman's basic wages to be payable up-to-date at specified intervals not exceeding one month, and for any additional amounts of wages to be payable within the pay cycle following that to which they relate, any amount of wages due to the seaman under the agreement shall (subject to subsection (5)) be paid to him not later than the date on which the next payment of his basic wages following the time of discharge would have fallen due if his employment under the agreement had continued.

(5) If it is not practicable, in the case of any amount due to the seaman by way of wages additional to his basic wages, to pay that amount by the date mentioned in subsection (4), that amount shall be paid to him not later than what would have been the last day of the pay cycle immediately following that date if his employment under the crew agreement has continued.

(6) If any amount which, under subsection (4) or (5) is payable to a seaman is not paid at the time at which it is so payable, it shall carry interest at the rate of 20 per cent per annum.

(7) The provisions of subsection (3) or (6) shall not apply if the failure to pay was due to a mistake, to a reasonable dispute as to liability or to the act or default of the seaman or to any other cause, not being the wrongful act or default of the persons liable to pay his wages or of their servants or agents; and so much of that subsection as relates to interest on the amount due shall not apply if a court in proceedings for its recovery so directs.

(8) Where a seaman is employed under a crew agreement relating to more than one ship the preceding provisions of this section shall have effect, in relation to wages due to him under the agreement, as if for any reference to the time of discharge there were substituted a reference to the termination of his employment under the crew agreement.

(9) Where a seaman is discharged from a ship outside Gibraltar but returns to Gibraltar under arrangements made by the persons who employed him, the preceding provisions of this section shall have effect, in relation to the wages due to him under a crew agreement relating to the ship, as if for the references in subsections (1) to (4) to the time of discharge there were substituted references to the time of his return to Gibraltar.

(10) For the purposes of this section any amount of wages shall, if not paid to him in cash, be taken to have been paid to a seaman–

(a) on the date when a cheque, or a money or postal order issued by the Post Office, for that amount was despatched by the recorded delivery service to the seaman's last-known address, or

(b) on the date when any account kept by the seaman with a bank or other institution was credited with that amount.".

36. *Revoked.*

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Power of superintendent to require production of ship's papers.

37.(1) In any proceedings under this Act before the superintendent relating to the wages, claims or discharge of a seaman, the superintendent may require the owner or his agent, or the master or any mate or other member of the crew, to produce any log books, papers or other documents in his possession or power relating to a matter in question in the proceeding, and may require the attendance of an examine any of those persons, being then at or near the place, on the matter.

(2) A person so required who fails, without reasonable cause, to comply with the requisition, is guilty of an offence and is liable on conviction to a fine of £100.

Rule as to payment of British seamen in foreign money.

38. Where a seaman has agreed with the master of a British ship for payment of his wages in British sterling or any other money, any payment of, or on account of, his wages if made in any other currency than that stated in the agreement, shall, notwithstanding anything in the agreement, be made at the rate of exchange for the money stated in the agreement, for the time being current at the place where the payment is made.

Advance and Allotment of Wages.

Advance notes restricted.

39.(1) Where an agreement with the crew is required to be made in a form approved by the Minister responsible for shipping, the agreement may contain a stipulation for payment to or on behalf of the seaman, conditionally on his going to sea in pursuance of the agreement, of a sum not exceeding the amount of one month's wages payable to the seaman under the agreement.

(2) Stipulations for the allotment of a seaman's wages may be made in accordance with this Act.

(3) Save as aforesaid an agreement by or on behalf of the employer of a seaman for the payment of money to or on behalf of the seaman conditionally on his going to sea from Gibraltar shall be void, and any money paid in satisfaction or in respect of any such agreement shall not be deducted from the seaman's wages, and a person shall not have any right of action, suit or set-off against the seaman or his assignee in respect of any money so paid or purporting to have been so paid.

Regulations as to allotment notes.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

40.(1) Any stipulation made by a seaman at the commencement of a voyage for the allotment of any part of his wages during his absence shall be inserted in the agreement with the crew, and shall state the amounts and times of the payments to be made.

(2) Where the agreement is required to be made in a form approved by the Minister responsible for shipping, the seaman may require that a stipulation be inserted in the agreement for the allotment by means of an allotment note, of any part (not exceeding one-half unless it is otherwise agreed between the seaman and the master) of his wages in favour of a near relative.

(3) Allotment notes shall be in a form approved by the Minister responsible for shipping.

(4) For the purposes of the provisions of this Act with respect to allotment notes, "near relative" means one of the following persons, namely, the wife, father, mother, grandfather, grandmother, child, grandchild, brother or sister of the seaman.

Further provisions as to allotment notes.

41.(1) A payment under an allotment note shall begin at the expiration of one month from the date of the agreement with the crew, and shall be paid at the expiration of every subsequent month after the first month, and shall be paid only in respect of wages earned before the date of payment.

(2) Notwithstanding the other provisions of this Act, by agreement with the master an allotment note may be granted to a seaman providing for–

(a) payment of a greater sum than one-half of the wages;

(b) payment at a period earlier than one month from the date of the agreement with the crew and at intervals more frequent than one month,

Right of Suing On allotment notes.

42.(1) The person in whose favour an allotment note under this Act is made may, unless the seaman is shown, in manner in this Act specified, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, recover the sums allotted, when and as the same are made payable, with costs from the owner of the ship with respect to which the engagement was made, or from any agent of the owner who has authorized the allotment, in the magistrate's court .

(2) In any proceeding for such recovery it shall be sufficient for the claimant to prove that he is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent, and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) by the official statement of the change in the crew caused by his absence, made and signed by the master, as by this Act is required; or

(b) by a certified copy of some entry in the official log book to the effect that he has left the ship; or

(c) by a credible letter from the master of the ship to the same effect; or

(d) by such other evidence as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid,

Rights of seamen in respect of Wages.

Right to wages etc., when to begin.

43. A seaman's right to wages and provisions shall be taken to begin either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Right to recover wages and salvage not to be forfeited.

44.(1) A seaman shall not by any agreement forfeit his lien on the ship, or be deprived of any remedy for the recovery of his wages, to which in the absence of the agreement he would be entitled, and shall not by any agreement abandon his right to wages in case of the loss of the ship, or abandon any right that he may have or obtain in the nature of salvage, and every stipulation in any agreement inconsistent with any provision of this Act shall be void.

(2) Nothing in this section shall apply to a stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by that ship to any other ship.

Wages not to depend on freight.

45.(1) The right to wages shall not depend on the earning of freight, and every seaman and apprentice who would be entitled to demand and recover any wages, if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to demand and recover the same, notwithstanding that freight has not been earned.

(2) Where a seaman or apprentice who would, but for death, be entitled by virtue of this section to demand and recover any wages, dies before the wages are paid, they shall be paid and applied in manner provided by the Merchant Shipping Acts with respect to the wages of a seaman who dies during a voyage.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Wages on termination of service by wreck or illness.

46.(1) Where the service of a seaman terminates before the date contemplated in the agreement, by reason of his being left on shore at any place abroad under a certificate granted as provided by sections 30 and 36 of the Merchant Shipping Act, 1906, or of his unfitness or inability to proceed on the voyage, he shall be entitled to wages up to the time of such termination, but not for any longer period.

(2) Where by reason of the wreck or loss of a ship on which a seaman is employed his service terminates before the date contemplated in the agreement, he shall, notwithstanding anything in subsection (1), but subject to the provisions of subsection (3), be entitled, in respect of each day on which he is in fact unemployed during a period of two months from the date of the termination of the service, to receive wages at the rate to which he was entitled at that date.

(3) A seaman shall not be entitled to receive wages under subsection (2) if the owner shows that the unemployment was not due to the wreck or loss of the ship and shall not be entitled to receive wages under that subsection in respect of any day if the owner shows that the seaman was able to obtain suitable employment on that day.

(4) In subsections (2) and (3), "seaman," in the case of a ship which is a fishing-boat, does not include any person who is entitled to be remunerated only by a share in the profits or the gross earnings of the working of the boat.

Wages not to accrue during refusal to work or imprisonment.

47. A seaman or apprentice shall not be entitled to wages for any time during which he unlawfully refuses or neglects to work, when required, whether before or after the time fixed by the agreement for his commencement of such work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Forfeiture of wages, etc., of seaman when illness caused by his own default.

48. Where a seaman is by reason of illness incapable of performing his duty, and it is proved that the illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is by reason of the illness incapable of performing his duty.

Expenses of medical attendance in case of injury or illness.

49.(1) If the master of, or a seaman belonging to, a ship receives any hurt or injury in the service of the ship, or suffers from any illness, the expense of providing the necessary surgical and medical advice and attendance and medicine, and also the expenses of the maintenance of the master or seaman until he is cured or dies, or is returned to a proper return port, and of his

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

conveyance to the port, and in the case of death the expense (if any) of his burial, shall be defrayed by the owner of the ship, without any deduction on that account from his wages.

(2) The provisions of subsection (1) shall apply to an illness of venereal disease but shall not apply to any other illness due to a seaman's own wilful act or default or to his own misbehaviour.

(3) If the master or a seaman is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequent returns to his duty, the expense of the removal and of providing the necessary medical advice and attendance and medicine, and of his maintenance while away from the ship shall be defrayed in like manner.

(4) The expense of all medicines, surgical and medical advice, and attendance, given to a master or seaman whilst on board his ship shall be defrayed in like manner.

(5) *Omitted*.

(6) In addition to the obligations imposed by the preceding sub-sections the owner shall be responsible to defray all expenses in respect of repatriation of the master or any seaman belonging to a ship which has been shipwrecked or otherwise has foundered, or who has been discharged for any cause or reason for which he or they cannot be held responsible.

Costs of procuring punishment may be deducted from wages.

50. Whenever in any proceeding relating to seamen's wages it is shown that a seaman or apprentice has in the course of the voyage been convicted of an offence by a competent tribunal, and rightfully punished for that offence by imprisonment or otherwise, the court hearing the case may direct any part of the wages due to the seaman, not exceeding £3, to be applied in reimbursing any costs properly incurred by the master in procuring the conviction and punishment.

Compensation to seamen improperly discharged.

51. If a seaman, having signed an agreement, is discharged otherwise than in accordance with the terms thereof, before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying that discharge, and without his consent, he shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage caused to him by the discharge not exceeding one month's wages, and may recover that compensation as if it were wages duly earned.

Restriction on sale of, and charge upon, Wages.

52.(1) As respects wages due or accruing to a seaman or apprentice to the sea service–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) they shall not be subject to attachment or arrestment from any court;

(b) an assignment or sale thereof made prior to the accruing thereof shall not bind the person making the same;

(c) a power of attorney or authority for the receipt thereof shall not be irrevocable; and

(d) a payment of wages to the seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of those wages, or any attachment, incumbrance or arrestment thereof.

(2) Nothing in this section shall affect the provisions of this Act with respect to allotment notes.

Summary proceedings for wages.

53. A seaman or apprentice to the sea service, or a person duly authorized on his behalf, may as soon as any wages due to him, not exceeding £100 , become payable, sue for the same in a summary manner in Gibraltar if his services were terminated in Gibraltar, or if he has been discharged at Gibraltar, or if any person on whom the claim is made is or resides in Gibraltar, and the order made by the court in the matter shall be final.

Remedies of master for Wages, disbursements and other liabilities.

54. The master of a ship shall, so far as the case permits, have the same rights, liens and remedies for the recovery of his wages as a seaman has under this Act, or by any law or custom.

(2) The master of a ship, and every person lawfully acting as master of a ship, by reason of the decease or incapacity from illness of the master of the ship, shall, so far as the case permits, have the same rights, liens and remedies for the recovery of disbursements or liabilities properly made or incurred by him on account of the ship as a master has for the recovery of his wages,

(3) If in any Admiralty proceeding in the Supreme Court touching the claim of a master in respect of wages, or of such disbursements or liabilities as aforesaid, any right of set-off or counter-claim is set up, the court may enter into and adjudicate upon all questions, and settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and may direct payment of any balance found to be due.

Forgery of documents, etc. , for purpose of obtaining property of deceased seamen.

55. A person who, for the purpose of obtaining, either for himself or for any other person, any property of any deceased seaman or apprentice to the sea service–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) forges or fraudulently alters, or assists in forging or fraudulently altering, or procures to be forged or fraudulently altered any document purporting to show or assist in showing any right to such property; or

(b) makes use of any document which has been so forged or fraudulently altered; or

(c) gives or assists in giving, or procures to be given, any false evidence, knowing the same to be false; or

(d) makes or assists in making, or procures to be made, any false representation, knowing the same to be false; or

(e) assists in procuring any false evidence or representation to be given or made, knowing the same to be false,

is guilty of an offence and is liable on conviction to imprisonment for five years, or on summary conviction to imprisonment for six months.

Appointment of medical inspectors, etc., and fees for services thereof.

56. The Minister responsible for shipping shall have the power–

(a) of appointing medical inspectors of seamen, of charging fees for medical examinations by those inspectors, and of determining the remuneration to be paid to those inspectors; and

(b) of appointing inspectors of ships' provisions, of medicines, medical stores and anti-scorbutics, of charging fees for examinations by those inspectors, and of determining the remuneration to be paid to those inspectors.

(c) of making regulations to provide for periodical medical examinations of masters and seamen, to prohibit the employment of masters and seamen who fail to obtain a valid medical fitness certificate, and to provide for matters incidental thereto.

Official Logs.

Official logs to be kept and to be evidence.

57.(1) An official log shall be kept in every ship, except home-trade ships not exceeding 150 gross tons, in the appropriate form for that ship approved by the Minister responsible for shipping.

(2) The Minister responsible for shipping shall approve forms of official log-books which may be different for different classes of ships, so that each form shall contain proper spaces for entries required by this Act.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(3) The official log may, at the discretion of the master or owner, be kept distinct from, or united with, the ordinary ship's log, so that in all cases the spaces in the official log–book shall be duly filled up.

(4) An entry required by this Act in an official log-book shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as that occurrence shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and if made in respect of an occurrence happening before the arrival of the ship at her final port of discharge shall not be made more than twenty-four hours after that arrival.

(5) Every entry in the official log-book shall be signed by the master and by the mate or some other of the crew; and also–

(a) if it is an entry of illness, injury or death, shall be signed by the surgeon or medical practitioner on board, if any;

(b) if it is an entry of wages due to, or of the sale of the effects of, a seaman or apprentice who dies, shall be signed by the mate and by some member of the crew besides the master;

(c) if it is an entry of wages due to a seaman who enters Her Majesty's naval service, shall be signed by the seaman, or by the officer authorized to receive the seaman into that service.

(6) Every entry made in an official log-book in the manner provided by this Act shall be admissible in evidence.

Entries required in official logbook.

58. The master of a ship for which an official log is required by this Act shall enter or cause to be entered in the official log–book the following matters:–

(a) every conviction by a legal tribunal of a member of his crew and the punishment inflicted;

(b) every offence committed by a member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the copy or reading over of that entry, and concerning the reply, if any, made to the charge;

(c) every offence for which punishment is inflicted on board and the punishment inflicted;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(d) a statement of the conduct, character and qualifications of each of his crew, or a statement that he declines to give an opinion on those particulars;

(e) every case of illness or injury happening to a member of the crew, with the nature thereof, and the medical treatment adopted, if any;

(f) every case of death happening on board and the cause thereof;

(g) every birth happening on board, with the sex of the infant and the names of the parents;

(h) every marriage taking place on board, with the names and ages of the parties;

(i) the name of every seaman or apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner and cause thereof;

(j) the wages due to any seaman who enters Her Majesty's naval service during the voyage;

(k) the wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom;

(l) the sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and the sum received for it;

(m) every collision with any other ship, and the circumstances under which the same occurred;

(n) any casualty or accident of which a report is required to be made under this Act;

(o) any other matter directed by this Act to be entered.

Offences in respect of official logs.

59.(1) If an official log-book is not kept in the manner required by this Act, or if an entry directed by this Act to be made therein is not made at the time and in the manner directed by this Act, the master is guilty of an offence and is liable on conviction for each offence to the specific fine in this Act mentioned in respect thereof, or where there is no such specific fine, to a fine of £400.

(2) A person who makes, or procures to be made, or assists in making, any entry in an official log-book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after that arrival, is guilty of an offence and is liable on conviction for each offence to a fine of £400.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(3) A person who wilfully destroys or mutilates or renders illegible any entry in an official log-book, or wilfully makes or procures to be made or assists in making a false or fraudulent entry in or omission from an official log-book, is guilty of an offence and is liable on conviction for each offence to imprisonment for two years or a fine of £1000.

Delivery of official logs to the superintendent.

60.(1) The master of every ship for which an official log-book is required by this Act shall, upon the discharge of the crew, deliver the official log-book of the voyage to the superintendent before whom the crew is discharged.

(2) The master of a ship who fails without reasonable cause to comply with this section is guilty of an offence and is liable on conviction to a fine of £400.

Official logs to be sent to superintendent in case of transfer of ship or of loss.

61.(1) Where, by reason of transfer of ownership or change of employment of a ship, the official log ceases to be required in respect of the ship, the master or owner of the ship shall, if the ship is then in Gibraltar, within one month and, if she is elsewhere, within six months, after the cessation, deliver or transmit to the superintendent at the port to which the ship belonged the official log-book, if any, duly made out to the time of the cessation.

(2) If a ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the superintendent at the port to which the ship belonged the official log-book, if any, duly made out to the time of the loss or abandonment.

(3) The master or owner of a ship who fails without reasonable cause to comply with this section is guilty of an offence and is liable on conviction to a fine of £400.

Provisions as to Discipline.

Misconduct endangering life or ship.

62. A master, seaman or apprentice belonging to a British ship who, by wilful breach of duty or by neglect of duty or by reason of drunkenness, –

(a) does any act tending to the immediate loss, destruction or serious damage of the ship, or tending immediately to endanger the life or limb of a person belonging to or on board the ship; or

(b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from immediate loss, destruction or serious damage, or for preserving any person belonging to or on board the ship from immediate danger to life or limb,

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

is guilty of an offence.

Penalty on stowaways, and discipline of stowaways and seamen carried under compulsion.

63.(1) A person who secretes himself and goes to sea in a ship without the consent of either the owner, consignee or master, or of a mate, or of the person in charge of the ship, or of any other person entitled to give that consent, is guilty of an offence and is liable on conviction to a fine of £400, or to imprisonment for four weeks. Such person found on board without consent may be taken before the magistrates' court without warrant, and such court may hear the case, and, on proof of the offence, convict the offender.

(2) Every seafaring person whom the master of a ship is, under the authority of this or any other enactment, compelled to take on board and convey, and every person who goes to sea in a ship without such consent as aforesaid, shall, so long as he remains in the ship, be deemed to belong to the ship, and be subject to the same laws and regulations for preserving discipline, and to the same fines and punishments for offences constituting or tending to a breach of discipline, as if he were a member of, and had signed the agreement with, the crew.

Documents to be handed over to successor on change of master.

64. (1) If during the progress of a voyage the master is removed or superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and if he fails without reasonable cause so to do, he is guilty of an offence and is liable on conviction to a fine of £1000.

(2) His successor shall immediately on assuming the command of the ship enter in the official log-book a list of the documents so delivered to him.

Application of Part I.

65. This Part shall apply to such ships or classes of ships and the owners, masters and crews thereof as the Minister responsible for shipping may declare by notice in the Gazette to the extent specified in such notice.

PART II.
PASSENGER SHIPS.

Interpretation of Part II.

66. For the purposes of this Part –

"passenger steamer" means every British steamship carrying passengers to and from Gibraltar and every foreign steamship (whether originally proceeding from Gibraltar

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

or from a port out of Gibraltar) which carries passengers to or from Gibraltar but shall not include any open motor boat used solely in the Bay of Gibraltar, or any vessel used solely in the port of Gibraltar.

Passengers landed or embarked by means of tenders.

67. Where a passenger steamer takes on board passengers from a tender, or lands passengers by means of a tender, she shall be deemed to be taking the passengers on board from, or landing the passengers at Gibraltar, and passengers conveyed in a tender to or from a ship at Gibraltar shall for the purposes of this Part be deemed to be passengers carried from or to Gibraltar.

Survey of Passenger Steamers.

Annual survey of passenger steamers.

68.(1) Every passenger steamer which carries more than twelve passengers shall be surveyed once at least in each year in the manner provided in this Part; and no ship (other than a steam ferry boat working in chains or a ship in respect of which there is a certificate in force issued by the Captain of the Port under rules made under the Port Act[1] or a motor boat licensed under those rules) shall proceed to sea or on any voyage or excursion with more than twelve passengers on board, unless there is in force in respect of the ship a certificate as to survey under this Part, applicable to the voyage or excursion on which the ship is about to proceed, or that voyage or excursion is one in respect of which the Minister responsible for shipping has exempted the ship from the requirements of this subsection.

(2) A passenger steamer attempting to ply or proceed to sea or on any voyage or excursion may be detained until such certificate is produced to the Captain of the Port.

(3) Provided that, while a steamer is an emigrant ship within the meaning of the Merchant Shipping Acts, and the provisions of those Acts as to the survey of the hull, machinery and equipments of emigrant ships have been complied with, she shall not require a survey or certificate under this section.

Mode of survey and declaration of survey.

69.(1) The owner of every passenger steamer to which section 68 applies shall cause the same to be surveyed by a ship surveyor of ships and an engineer surveyor of ships, and in the case of a sea–going passenger steamer required to be provided with a wireless telegraphy installation by a wireless telegraphy surveyor.

[1] **1960-16**

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) The surveyors, if satisfied on the survey that they can with propriety do so, shall deliver to the owner declarations of survey in a form approved by the Minister responsible for shipping.

(3) The declaration of the ship surveyor shall contain statements of the following particulars:–

(a) that the hull of the steamer is sufficient for the service intended and in good condition;

(b) that the boats, life buoys, lights, signals, compasses and shelter for deck passengers, are such, and in such condition, as are required by this Act;

(c) the time (if less than one year) for which the hull and equipments will be sufficient;

(d) the voyages or class of voyages on which as regards construction and equipments the steamer is in the surveyor's judgment fit to ply;

(e) the number of passengers which the steamer is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins and in different parts of the deck and cabins; those numbers to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried or other circumstances, as the case requires; and

(f) that the certificates of the master and mate or mates are such as are required by this Act.

(4) The declaration of the engineer surveyor shall contain statements of the following particulars:–

(a) that the machinery of the steamer is sufficient for the service intended, and in good condition;

(b) the time (if less than one year) for which the machinery will be sufficient;

(c) that the safety valves and appliances for the prevention, detection and extinction of fire are such and in such condition as are required by this Act;

(d) the limit of the weight to be placed on the safety valves;

(e) the voyages or class of voyages on which, as regards machinery, the steamer is in the surveyor's judgment fit to ply; and

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(f) that the certificates of the engineer or engineers of the steamer are such as are required by this Act.

(5) The declaration of the wireless telegraphy surveyor shall contain statements of the following particulars:–

(a) the voyages or class of voyages on which, as regards wireless telegraphy, the steamer is fit to ply;

(b) that, having regard to the tonnage of the steamer and the voyages or class of voyages on which she is declared to be fit to ply, the wireless telegraph installation complies with the wireless telegraphy rules made under section 92; and

(c) that the certificates of the wireless telegraphy operators and watchers are such as are required by those rules.

Transmission of declaration.

70.(1) The owner of a steamer surveyed shall within fourteen days after the receipt by him of a declaration of survey transmit it to the Minister responsible for shipping.

(2) If an owner fails without reasonable cause so to transmit a declaration of survey, he shall forfeit a sum not exceeding fifty pence for every day during which the transmission is delayed, and any sum so forfeited shall be payable on the granting of a certificate in addition to the fee, and shall be applied in the same manner as the fee.

Issue of passenger steamer's certificate.

71. On the receipt of the declarations of survey, the Minister responsible for shipping shall, if satisfied that this Part has been complied with, issue in duplicate a passenger steamer's certificate, that is to say, a certificate stating such compliance and stating according to the declarations –

(a) the voyages or class of voyages in which the steamer is fit to ply; and

(b) the number of passengers which the steamer is fit to carry distinguishing, if necessary, the number to be carried in each part of the steamer, and any conditions and variations to which the number is subject.

Appeal to court of survey.

72. (1) If the owner of a steamer feels aggrieved by the declaration of survey of a ship or engineer surveyor or wireless telegraphy surveyor, or by the refusal of such a surveyor to give such a declaration, he may appeal to the court of survey in manner directed by the rules of court made under section 151.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) On any such appeal the court of survey shall report to the Minister responsible for shipping on the question raised by the appeal and the Minister responsible for shipping when satisfied that the requirements of the report and of the foregoing provisions of this Part have been complied with, may grant a passenger steamer's certificate.

(3) Subject to any order made by the court of survey the costs of and incidental to the appeal shall follow the event.

(4) A ship or engineer surveyor or wireless telegraphy surveyor in making a survey of a steamer for the purpose of a declaration of survey shall, if the owner of the steamer so requires, be accompanied on the survey by some person appointed by the owner, and in that case, if the surveyor and the person so appointed agree, there shall be no appeal under this section to the court of survey.

Transmission of certificate.

73.(1) The Minister responsible for shipping shall transmit the passenger steamer's certificate in duplicate to the Captain of the Port.

(2) The Captain of the Port shall cause notice of the transmission to be given to the master or owner or his agent, and on the owner, master or agent applying and paying the proper fee and other sums (if any) mentioned in this Act as payable in that behalf, deliver to him both copies of the certificate.

(3) In proving the issue of a passenger steamer's certificate it shall be sufficient to show that the certificate was duly received by the Captain of the Port, and that due notice of the transmission was given to the owner, master or agent.

Fees for certificate.

74. The grantee of a passenger steamer's certificate shall pay the prescribed fees.

Duration of certificates.

75.(1) A passenger steamer's certificate shall not be in force for more than one year from the date of its issue, or any shorter time specified in the certificate, nor after notice is given by the Minister responsible for shipping to the owner, agent or master of the steamer, that the Minister responsible for shipping has cancelled it.

(2) If a passenger steamer is absent from Gibraltar at the time when her certificate expires, a fine shall not be incurred for want of a certificate until she first begins to ply with passengers after her next return to Gibraltar.

Cancellation of certificates.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

76.(1) The Minister responsible for shipping may cancel a passenger steamer's certificate where he has reason to believe –

(a) that any declaration of survey on which the certificate was founded has been in any particular made fraudulently or erroneously; or

(b) that the certificate has been issued upon false or erroneous information; or

(c) that since the making of the declaration, the hull, equipment or machinery have sustained any injury, or are otherwise insufficient.

(2) In every such case the Minister responsible for shipping may require the owner to have the hull, equipment or machinery of the steamer again surveyed, and to transmit further declarations of survey, before he re-issues the certificate or grants a fresh one in lieu thereof.

Alteration of ships and additional surveys.

77.(1) The owner or master of a passenger steamer to which this section applies shall, as soon as possible after any alteration is made in the steamer's hull, equipment or machinery which affects the efficiency thereof or the seaworthiness of the steamer, give written notice to the Minister responsible for shipping containing full particulars of the alteration, and, if notice is not so given, the owner or master of the steamer is guilty of an offence and is liable on conviction to a fine of £1000.

(2) If the Minister responsible for shipping has reason to believe that since the making of the last declaration of survey in respect of a passenger steamer to which this section applies –

(a) any such alteration as aforesaid has been made in the hull, equipment or machinery of the steamer; or

(b) the hull, equipment or machinery of the steamer have sustained any injury, or are otherwise insufficient,

the Minister responsible for shipping may, without prejudice to his powers under section 76, require the steamer to be again surveyed to such extent as he thinks fit, and, if such requirement is not complied with, may cancel any certificate issued in respect of the steamer under section 71.

(3) This section applies to every passenger steamer, whether British or foreign, in respect of which any such certificate as aforesaid is for the time being in force, and for the purpose of this section, "alteration," in relation to the hull, equipment or machinery of a steamer, includes the renewal of any part thereof.

Delivery up of certificate.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

78.(1) The Minister responsible for shipping may require a passenger steamer's certificate, which has expired or been cancelled, to be delivered up as he directs.

(2) An owner or master who fails without reasonable cause to comply with such requirement, is guilty of an offence and is liable on conviction to a fine of £400.

Posting up of certificate.

79.(1) The owner or master of every passenger steamer required to have a passenger steamer's certificate shall forthwith on the receipt of the certificate by him or his agent cause one of the duplicates to be put up in some conspicuous place on board the steamer, so as to be legible to all persons on board, and to be kept so put up and legible while the certificate remains in force, and the steamer is in use.

(2) The owner or master who fails without reasonable cause to comply with this section, is guilty of an offence and is liable on conviction to a fine of £400.

(3) If a passenger steamer plies or goes to sea with passengers on board, and this section is not complied with, then for each offence the owner thereof is liable to a fine of £400, and the master is liable to a further fine of £200.

Penalty for forgery of a certificate or declaration.

80. A person who –

(a) knowingly and wilfully makes, or assists in making, or procures to be made, a false or fraudulent declaration of survey or passenger steamer's certificate; or

(b) forges, assists in forging, procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such declaration or certificate, or anything contained in, or any signature to any such declaration or certificate,

is guilty of an offence and liable to a fine of £ 2,000.

Penalty for carrying passengers in excess.

81. The owner or master of any passenger steamer shall not receive on board thereof, or on or in any part thereof, any number of passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the passenger steamer's certificate, and if he does so, he shall for each offence be liable on summary conviction to a fine of £ 50,000 and on conviction on indictment to a fine.

Overcrowding of passenger steamers.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

82. If a passenger steamer has on board at any place a number of' passengers which, having regard to the time, occasion and circumstances of the case, is greater than the number allowed by the passenger steamer's certificate, the owner or master of the steamer shall be deemed to have received those passengers on board at that place.

Penalty on master or owner for non-compliance with provisions as to passenger steamers.

83. If the provisions of this Part which require a passenger steamer to be surveyed and to have a passenger steamer's certificate are not complied with in the case of any such steamer, the master or owner of the steamer is guilty of an offence and, without prejudice to any other remedy or penalty, is liable on conviction to a fine of £10 for every passenger carried from or to Gibraltar, and the master or owner of any tender by means of which passengers are taken on board or landed from any such steamer, is liable to a like penalty for every passenger so taken on board or landed.

Exemption from survey, etc., of passenger steamer in certain cases.

84. (1) Where a ship is a passenger steamer within the meaning of this Part and a valid and subsisting certificate issued by a competent authority is produced, which the Minister responsible for shipping is satisfied has been issued after official survey at a port in the United Kingdom, any British possession or foreign country, in accordance with requirements substantially equivalent to those in this Act, the Minister responsible for shipping may dispense with any further survey of the ship, in respect of any requirements so complied with.

(2) Where there is also produced in respect of such passenger steamer a certificate issued by or under the authority of the government of the country to which the steamer belongs showing the number of passengers which the steamer is fit to carry, and the Minister responsible for shipping is satisfied that that number has been determined substantially in the same manner as in the case of a British steamer registered in Gibraltar, the steamer shall not require a passenger certificate in pursuance of this Act and the certificate so produced shall have effect as a passenger steamer's certificate.

General Equipment of Passenger Steamers.

Equipment of passenger steamers with compasses, deck shelters and safety appliances.

85.(1) A sea-going passenger steamer shall have her compasses properly adjusted from time to time, to the satisfaction of the ship surveyor and according to such rules as may be issued by the Minister responsible for shipping.

(2) A home-trade passenger steamer shall be provided with such shelter for the protection of deck passengers (if any) as the Minister responsible for shipping, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, may require.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(3) A passenger steamer shall be provided with a safety valve on each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if the safety valve is in addition to the ordinary valve, so constructed as to have an area not less, and a pressure not greater, than the area of and pressure on the ordinary valve.

(4) If a passenger steamer plies or goes to sea from Gibraltar without being equipped as required by this section, then, for each matter in which default is made, the owner (if in fault) is guilty of an offence and is liable on conviction to a fine of £400, and the master (if in fault) is guilty of an offence and is liable to a fine of £200.

Prohibition of increasing weight on safety valve.

86. A person shall not increase the weight on the safety valve of a passenger steamer beyond the limits fixed by the surveyor and, if he does so, he is guilty of an offence and in addition to any other liability he may incur by so doing, is liable on conviction to a fine of £1000.

Keeping Order in Passenger Steamers.

Offences in connection with passenger steamers.

87.(1) If any of the following offences is committed in the case of a passenger steamer for which there is a passenger steamer's certificate in force, that is to say:–

(a) if any person being drunk or disorderly has been on that account refused admission thereto by the owner or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the steamer;

(b) if any person being drunk or disorderly on board the steamer is requested by the owner or any person in his employ to leave the steamer at Gibraltar, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;

(c) if any person on board the steamer, after warning by the master or other officer thereof, molests or continues to molest any passenger;

(d) if any person, after having been refused admission to the steamer by the owner or any person in his employ on account of the steamer being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the steamer;

(e) if any person having gone on board the steamer at Gibraltar, and being requested, on account of the steamer being full, by the owner or any person in his employ to leave the steamer, before it has quitted Gibraltar, and having had the amount of his

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

fare (if he has paid it) returned or tendered to him, does not comply with that request;

(f) if any person travels or attempts to travel in the steamer without first paying his fare, and with intent to avoid payment thereof;

(g) if any person, having paid his fare for a certain distance, knowingly and wilfully proceeds in the steamer beyond that distance without first paying the additional fare, and with intent to avoid payment thereof;

(h) if any person on arriving in the steamer at a point to which he has paid his fare knowingly and wilfully refuses or neglects to quit the steamer; and

(i) if any person on board the steamer fails, when requested by the master or other officer thereof, either to pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the steamer,

the person so offending is for each offence liable on conviction to a fine of £100, but that liability shall not prejudice the recovery of any fare payable by him.

(2) A person on board any such steamer who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of the steamer, or to obstruct, impede or molest the crew, or any of them, in the navigation or management of the steamer, or otherwise in the execution of their duty on or about the steamer, is guilty of an offence and is liable on conviction to a fine of £100.

(3) The master or other officer of any such steamer, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against this section and whose name and address are unknown to the master or officer, and convey the offender with all convenient despatch before the magistrates' court to be dealt with according to law.

(4) A person who commits an offence against this section and who on the application of the master of the steamer, or any person in the employ of the owner thereof, refuses to give his name and address, or gives a false name or address, is guilty of an offence and is liable on conviction to a fine of £100, and the fine shall be paid to the owner of the steamer.

Power to exclude drunken passengers on home-trade passenger steamers.

88. The master of any home-trade passenger steamer may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place, and a person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Returns of Passengers.

Return to be furnished by masters of ships as to passengers.

89.(1) The master of every ship, whether a British or foreign ship, which carries any passenger to Gibraltar from any place out of Gibraltar, or from Gibraltar to any place out of Gibraltar shall furnish to the Captain of the Port in such manner as he may direct a return giving the total number of any passengers so carried, distinguishing, if so directed, the total number of any class of passengers so carried, and giving, if the Captain of the Port so direct, such particulars with respect to passengers as may be for the time being required by the Captain of the Port.

(2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.

(3) If the master of a ship fails to make a return as required by this section, or makes a false return, and if any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or gives any false information for the purpose, the master or passenger is guilty of an offence and is liable on conviction for each offence to a fine of £400.

PART III.

Revoked.

PART IV.

SAFETY AT SEA.

Life-Saving Appliances.

Convention for Safety of life at Sea.

101A. (1) In this section the expression "Safety Convention" refers collectively to the International Convention for the Safety of Life at Sea signed in London on 1st November 1974 and to the Protocol relating to that Convention signed in London on 17th February 1978 and to the amendments to that Convention adopted on 20th November 1981 and on 17th June 1983 by the Maritime Safety Committee of the International Maritime Organisation.

(2) Without prejudice to subsection (3) the rules and regulations contained in the Safety Convention as from time to time amended shall without further enactment be given legal effect in Gibraltar and shall apply in relation to–

(a) ships registered in Gibraltar to the same extent as if such ships were registered in the United Kingdom, and

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) ships not registered in Gibraltar while they are in Gibraltar.

(3) The Minister responsible for shipping may be regulations make provision for any such matter as shall appear to him necessary or expedient for the purpose of implementing in Gibraltar the provisions of the Safety Convention or enabling any such provision to be implemented.

(4) Without derogation from the generality of subsection (3), the regulations made under that subsection may make provision for–

(a) giving legal effect in Gibraltar to any amendment to the Safety Convention made at any time in accordance with Article VIII of that Convention, and

(b) making such modifications of this Act or any other enactment as shall appear to the Minister responsible for shipping necessary or expedient for the purpose specified in subsection (3):

Provided that the regulations making such modifications as are specified in this paragraph shall not be made except with the approval by a resolution of the Parliament.

(5) If a ship to which the rules and regulations referred to in this section apply proceeds on any voyage or excursion without complying with the requirements of such rules or regulations, the owner and master of the ship shall each be guilty of an offence and liable on summary conviction to a fine of £1000 or on conviction on indictment, to imprisonment for two years and a fine:

Provided that it shall be a good defence to a charge under this subsection to prove that the person charged took all reasonable steps to avoid the commission of the offence.

(6) In any case where a ship does not comply with the requirements of the rules and regulations referred to in this section, the ship shall be liable to be detained.

(7) Whenever there is a conflict between the provisions of the Safety Convention and the provisions of this Act or rules or regulations made thereunder the provisions of this Act or such rules or regulations shall prevail to the extent of the conflict.

(8) The rules and regulations referred to in this section, shall, except where otherwise stated therein, apply to the ships belonging to the Government of Gibraltar.

Saving.

101B. Sections 101C to 101E inclusive shall have effect without prejudice to section 101A.

Owner and master liable in respect of dangerously unsafe ship.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

101C.(1) If, having regard to the nature of the service for which it is intended–

(a) a ship in Gibraltar, or

(b) a ship registered in Gibraltar which is in any other port,

is, by reason of any of the matters mentioned in subsection (3), not fit to go to sea without serious danger to human life, then, subject to subsections (5) and (6), the master and the owner of the ship shall each be guilty of an offence.

(2) Where, at the time when a ship is not fit to go to sea as mentioned in subsection (1), any responsibilities of the owner with respect to the particular matters by reason of which the ship is not fit to go to sea have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either–

(a) directly, under the terms of a charter-party or management agreement made with the owner, or

(b) indirectly, under the terms of a series of charter-parties or management agreements,

the reference to the owner in subsection (1) shall be construed as including a reference to that other person or (as the case may be) to each of those other persons.

(3) The matters referred to in subsection (1) are-

(a) the condition, or the unsuitability for its purpose, of–

(i) the ship or its machinery or equipment, or

(ii) any part of the ship or its machinery or equipment;

(b) undermanning;

(c) overloading or unsafe or improper loading;

(d) any other matter relevant to the safety of the ship.

(4) A person guilty of an offence under this section shall be liable–

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to imprisonment for a term of two years and a fine.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(5) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence–

(a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters falling within subsection (3) which are specified in the charge; or

(b) it was reasonable for such arrangements not to have been made.

(6) It shall also be a defence in proceedings for an offence under this section to prove–

(a) that, under the terms of one or more charter-parties or management agreements entered into by the defendant, the relevant responsibilities, namely–

(i) where the defendant is the owner, his responsibilities with respect to the matters referred to in subsection (5)(a), or

(ii) where the defendant is liable to proceedings under this section by virtue of subsection (2), so much of those responsibilities as had been assumed by him as mentioned in that subsection. had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and

(b) that in all the circumstances of the case the defendant had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a);

and, in determining whether the defendant had done so, regard shall be had in particular to the matters mentioned in subsection (7).

(7) Those matters at–

(a) whether prior to the time of the alleged offence the defendant was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and

(b) the extend to which the defendant was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (6)(a)–

(i) to terminate it, or

(ii) to intervene in the management of the ship,

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

in the event of any such deficiency, and whether it was reasonable for the defendant to place himself in that position.

(8) No proceedings for an offence under this section shall be instituted except by or with the consent of the Attorney-General.

(9) In this section–

"management agreement", in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person);

"relevant responsibilities" shall be construed in accordance with subsection (6);

and any reference in this section to going to sea shall, in a case where the service for which a ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

(10) References in this section to responsibilities being assumed by any person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

Owner liable for unsafe operation of ship.

101D.(1) It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.

(2) This section applies to–

(a) any ship registered in Gibraltar; and

(b) any ship which–

(i) is registered under the law of any country outside Gibraltar, and

(ii) is within the seaward limits of the territorial waters of Gibraltar while proceeding to or from Gibraltar,

unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1), he shall be guilty of an offence and liable–

(a) on summary conviction, to a fine not exceeding £50,000;

(b) on conviction on indictment, to imprisonment for two years and a fine.

(4) Where any such ship–

(a) is chartered by demise, or

(b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 101C.

Any reference to the owner of the ship in subsection (1) or (3) shall be construed as including a reference–

(i) to the charterer under the charter by demise, or

(ii) to any such manager as is referred to in paragraph (b), or

(iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,

and accordingly the reference in subsection (1) to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.

(5) No proceedings for an offence under this section shall be instituted except by or with the consent of the Attorney-General.

Conduct endangering ships, structures or individuals.

101E.(1) This section applies–

(a) to the master of, or any seaman employed in, a ship registered in Gibraltar; and

(b) to the master of, or any seaman employed in, a ship which–

(i) is registered under the law of any country outside Gibraltar, and

(ii) is in Gibraltar or within the seaward limits of the territorial water of Gibraltar while proceeding to or from Gibraltar.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) If a person to whom this section applies, while on board his ship or in its immediate vicinity–

(a) does any act which causes or is likely to cause–

(i) the loss or destruction of or serious damage to his ship or its machinery, navigational equipment or safety equipment, or

(ii) the loss or destruction of or serious damage to any other ship or any structure, or

(iii) the death of or serious injury to any person, or

(b) omits to do anything required–

(i) to preserve his ship or its machinery, navigational equipment or safety equipment from being lost, destroyed or seriously damaged, or

(iii) to prevent his ship from causing the loss or destruction of or serious damage to any other ship or any structure, or the death of or serious injury to any person not on board his ship,

and either of the conditions specified in subsection (3) is satisfied with respect to that act or omission, he shall (subject to subsections (6) and (7)) be guilty of an offence.

(3) Those conditions are–

(a) that the act or omission was deliberate or amounted to a breach or neglect of duty;

(b) that the master or seaman in question was under the influence of drink or a drug at the time of the act or omission.

(4) If a person to whom this section applies–

(a) discharges any of his duties, or performs any other function in relation to the operation of his ship or its machinery or equipment, in such a manner as to cause, or to be likely to cause, any such loss, destruction, death or injury as is mentioned in subsection (2)(a), or

(b) fails to discharge any of his duties, or to perform any such function, properly to such an extent as to cause, or to be likely to cause, any of those things,

he shall (subject to subsections (6) and (7)) be guilty of an offence.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(5) A person guilty of an offence under this section be liable–

(a) on summary conviction, to a fine not exceeding £2,000;

(b) on conviction on indictment, to imprisonment for two years and a fine.

(6) In proceedings for an offence under this section it shall be a defence to prove–

(a) in the case of an offence under subsection (2) where the act or omission alleged against the defendant constituted a breach or neglect of duty, that the defendant took all reasonable steps to discharge that duty;

(b) in the case of an offence under subsection (4) that the defendant took all reasonable precautions and exercised all due diligence to avoid committing the offence; or

(c) in the case of an offence under either of those subsections–

(i) that he could have avoided committing the offence only by disobeying a lawful command, or

(ii) that in all the circumstances the loss, destruction, damage, death or injury in question, or (as the case may be) the likelihood of its being caused, either could not reasonably have been foreseen by the defendant or could not reasonably have been avoided by him.

(7) In the application of this section to any person falling within subsection (1)(b), subsections (2) and (4) shall have effect as if paragraphs (a)(i) and (b)(i) of subsection (2) were omitted; and no proceedings for an offence under this section shall be instituted against any such person, except by or with the consent of the Attorney-General.

(8) In this section–

"breach or neglect of duty", except in relation to a master, includes any disobedience to a lawful command;

"duty"–

(a) in relation to a master or seaman, means any duty falling to be discharged by him in his capacity as such; and

(b) in relation to a master, includes his duty with respect to the good management of his ship and his duty with respect to the safety of operation of his ship, its machinery and equipment; and

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

"structure" means any fixed or movable structure (of whatever description) other than a ship.«

Rules as to life-saving appliances.

102. The Minister responsible for shipping may make rules (in this Act called rules for life-saving appliances) with respect to all or any of the following matters, namely:

(a) the arranging of British ships registered in Gibraltar into classes, having regard to the services in which they are employed, to the nature and duration of the voyage, and to the number of persons carried;

(b) the number and description of the boats, life-boats, life-rafts, line throwing appliances, life jackets and life buoys to be carried by British ships registered in Gibraltar, according to the class in which they are arranged, and the mode of their construction, also the equipments to be carried by the boats and rafts, and the methods to be provided to get the boats and other life-saving appliances into the water which methods may include oil for use in stormy weather;

(c) the quantity, quality and description of buoyant apparatus to be carried on British ships registered in Gibraltar, either in addition to or in substitution for boats, life-boats, life-rafts. life-jackets and life-buoys;

(d) the marking of boats, life-boats, life-rafts and buoyant apparatus so as to show the dimensions thereof and the number of persons authorized to be carried thereon;

(e) the manning of boats and life-boats and the qualifications and certificates of life-boat men;

(f) the provision to be made for mustering the passengers and crew and for embarking them in the boats and life-boats (including provision as to the lighting of, and as to the means of ingress to, and egress from, different parts of the ship);

(g) the practicing of boat drills;

(h) the assignment of specific duties to each member of the crew in the event of emergency;

(i) the methods to be adopted and the appliances to be carried for the prevention, detection and extinction of fire;

(j) the provision in ships of plans or other information relating to the means of preventing, detecting, controlling and extinguishing outbreaks of fire.

Duties of owners and masters as to carrying life-saving appliances.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

103. It shall be the duty of the owner and master of every British ship registered in Gibraltar to see that his ship is provided, in accordance with the rules for life-saving appliances, with such of those appliances as, having regard to the nature of the service on which the ship is employed, and the avoidance of undue encumbrance of the ship's deck, are best adapted for securing the safety of her crew and passengers.

Penalty for breach of rules.

104. (1)In the case of any ship–

(a) if the ship is required by the rules for life-saving appliances to be provided with such appliances and proceeds on any voyage or excursion without being so provided in accordance with the rules applicable to the ship; or

(b) if any of the appliances with which the ship is so provided are lost or rendered unfit for service in the course of the voyage or excursion through the wilful fault or negligence of the owner or master; or

(c) if the master wilfully neglects to replace or repair on the first opportunity any such appliances lost or injured in the course of the voyage or excursion;or

(d) if such appliances are not kept so as to be at all times fit and ready for use; or

(e) if any provision of the rules for life-saving appliances applicable to the ship is contravened or not complied with,

the owner of the ship (if in fault) and the master of the ship (if in fault) are guilty of offences and on conviction the owner is liable to a fine of £400 and the master to a fine of £200.

(2) Nothing in the fore going enactments with respect to lifesaving appliances shall prevent any person from being liable under any other provision of this Act, or otherwise, to any other or higher fine or punishment than is provided by those enactments, provided that a person shall not be punished twice for the same offence.

(3) If the court before whom a person is charged with an offence punishable under those enactments thinks that proceedings ought to be taken against him for the offence under any other provision of this Act, or otherwise, the court may adjourn the case to enable such proceedings to be taken.

Survey of ship with respect to life-saving appliances.

105.(1) A surveyor of ships may inspect any ship for the purpose of seeing that the rules for life-saving appliances have been complied with in her case, and for the purpose of any such

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

inspection shall have all the powers of a Board of Trade inspector under the Merchant Shipping Acts.

(2) If the surveyor finds that the rules for life-saving appliances have not been complied with, he shall give written notice to the owner or master stating in what respect such rules have not been complied with, and what, in his opinion, is required to rectify the matter.

(3) Every notice so given shall be communicated in manner directed by the Minister responsible for shipping to the Captain of the Port, and the ship shall be detained until a certificate under the hand of a surveyor of ships is produced to the effect that the matter has been rectified.

Power to apply rules as to life-saving appliances to foreign ships in certain cases.

106. Sections 103 to 105 (both inclusive) shall apply to all foreign ships while they are at Gibraltar as they apply to British ships:

Provided that the Minister responsible for shipping may direct that those provisions shall not apply to any ship of a foreign country in which the provisions in force relating to life-saving appliances appear to the Minister responsible for shipping to be as effective as the provisions of this Part, on proof that those provisions are complied with in the case of that ship:

Provided also that those provisions shall not affect any foreign ship not bound to Gibraltar which comes into Gibraltar for any purpose other than the purpose of embarking or landing passengers or taking in or disembarking cargo or taking in bunker coal or oil fuel or any material for the purpose of refuelling or taking in water or stores.

General Equipment.

Adjustment of compasses and provision of hose.

107.(1) Every British sea-going steamship registered in or being at Gibraltar, if employed to carry passengers, shall have her compasses properly adjusted from time to time and every such British sea-going steamship not used wholly as a tug shall be provided with a hose capable of being connected with the engines of the ship, and adapted for extinguishing fire in any part of the ship.

(2) If any such British sea–going steamship plies or goes to sea from Gibraltar and any requirement of this section is not complied with, then for each matter in which default is made, the owner (if in fault) and the master (if in fault) are guilty of offences and on conviction the owner is liable to a fine of £400 and the master to a fine of £200.

Placing undue weight on safety valve.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

108. A person shall not place an undue weight on the safety valve of any steamship, and if he does so he is, in addition to any other liability he may incur by so doing, guilty of an offence and liable on conviction to a fine of £1000.

Provision of signals of distress and inextinguishable lights.

109.(1) Where a ship is a sea-going passenger steamer, within the meaning of Part II, the ship shall be prodded to the satisfaction of the Minister responsible for shipping –

(a) with means for making any signals of distress prescribed by Her Majesty in Council under the Merchant Shipping Acts; and

(b) with a proper supply of lights inextinguishable in water and fitted for attachment to life-buoys.

(2) If any such ship goes to sea from Gibraltar without being provided as required by this section, then for each default in any of the above equisites, the owner (if in fault) and the master (if in fault) are guilty of offences and on conviction the owner is liable to a fine of £400 and the master to a fine of £200.

Dangerous Goods.

Restrictions on carriage of dangerous goods.

110.(1) A person shall not send or attempt to send from Gibraltar by any vessel, British or foreign, and a person not being the master or owner of the vessel, shall not carry or attempt to carry from Gibraltar in any such vessel, any dangerous goods, without distinctly marking their nature on the outside of the package containing the same, and giving written notice of the nature of goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time of sending the same to be shipped or taking the same on board the vessel.

(2) A person who fails without reasonable cause to comply with this section, is guilty of an offence and on conviction is liable for each offence to a fine of »£400 « or, if he shows that he was merely an agent in the shipment of any such goods, and was not aware and did not suspect and had no reason to suspect that the goods shipped by him were of a dangerous nature, then of £100.

(3) For the purpose of this Part, "dangerous goods" mean aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitroglycerine, petroleum, any explosives within the meaning of the Explosives Act[2] and any other goods which are of a dangerous nature.

---

[2] **1960-10**

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Penalty for misdescription of dangerous goods.

111. A person shall not knowingly send or attempt to send by, or carry or attempt to carry in, any vessel, British or foreign, leaving Gibraltar any dangerous goods under a false description, and shall not falsely describe the sender or carrier thereof, and a person who acts in contravention of this section is guilty of an offence and is liable on conviction to a fine of £5000.

Power to deal with goods suspected of being dangerous.

112.(1) The master or owner of any vessel, British or foreign, may refuse to take on board at Gibraltar any package or parcel which he suspects to contain any dangerous goods, and may require it to be opened to ascertain the fact.

(2) Where any dangerous goods, or any goods which in the judgment of the master or owner of the vessel are dangerous goods, have been sent or brought abroad any vessel, British or foreign, without being marked as aforesaid, or without such notice having been given as aforesaid, the master or owner of the vessel may cause those goods to be thrown overboard, together with any package or receptacle in which they are contained, and neither the master nor the owner of the vessel shall be subject to any liability, civil or criminal, in any court for so throwing the goods overboard.

Forfeiture of dangerous goods improperly sent or carried.

113.(1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, British or foreign, at Gibraltar, without being marked as aforesaid, or without such notice having been given as aforesaid, or under a false description, or with a false description of the sender or carrier thereof, the magistrates' court may declare those goods, and any package or receptacle in which they are contained, to be, and they shall thereupon be, forfeited, and when forfeited shall be disposed of as the court directs.

(2) The court shall have, and may exercise, the aforesaid powers of forfeiture and disposal notwithstanding that the owner of the goods has not committed any offence under the provisions of this Act relating to dangerous goods, and is not before the court, and has not notice of the proceedings, and notwithstanding that there is no evidence to show to whom the goods belong, nevertheless the court may, in its discretion, require such notice as it may direct to be given to the owner or shipper of the goods before they are forfeited.

Saving for other enactments relating to dangerous goods.

114. The provisions of this Part relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in those provisions shall be deemed to authorize any person to be sued or prosecuted twice in the same matter.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Obligation of shipowner to crew with respect to use of reasonable efforts to secure seaworthiness.

115.(1) In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the owner of the ship, that the owner of the ship, and the master, and every agent charged with the loading of the ship, or the preparing of the ship for sea, or the sending of the ship to sea, shall use all reasonable means to ensure the seaworthiness of the ship for the voyage at the time when the voyage commences, and to keep her in a seaworthy condition for the voyage during the voyage.

(2) Nothing in this section shall subject the owner of a ship to any liability by reason of the ship being sent to sea in an unseaworthy state where, owing to special circumstances, the sending of the ship to sea in such a state was reasonable and justifiable.

Power to detain unsafe ships, and procedure for detention.

116.(1) Where a British ship, being at Gibraltar, is an unsafe ship, that is to say, is by reason of the defective condition of her hull, equipment or machinery, or by reason of undermanning, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, having regard to the nature of the service for which she is intended, such ship may be provisionally detained for the purpose of being surveyed or for ascertaining the sufficiency of her crew, and either finally detained or released as follows:–

(a) the Minister responsible for shipping, if he has reason to believe, on complaint or otherwise, that a British ship is unsafe, may order the ship to be provisionally detained as an unsafe ship for the purpose of being surveyed;

(b) when a ship has been provisionally detained there shall be forthwith served on the master of the ship a written statement of the grounds of her detention, and the Minister responsible for shipping may, if he think fit, appoint some competent person or persons to survey the ship and report thereon to the Minister responsible for shipping;

(c) the Minister responsible for shipping on receiving the report may either order the ship to be released or, if in his opinion the ship is unsafe, may order her to be finally detained, either absolutely, or until the performance of such conditions with respect to the execution of repairs or alterations, or the unloading or reloading of cargo, or the manning of the ship, as the Minister responsible for shipping thinks necessary for the protection of human life, and the Minister responsible for shipping may vary or add to any such order;

(d) before the order for final detention is made a copy of the report shall be served upon the master of the ship, and within seven days after the service the owner or

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

master of the ship may appeal to the court of survey in manner directed by the rules of court made under section 151;

(e) where a ship has been provisionally detained, the owner or master of the ship, at any time before the person appointed under this section to survey the ship makes that survey, may require that he shall be accompanied by such person as the owner or master may select out of the list of assessors for the court of survey, and in that case if the surveyor and assessor agree, the Minister responsible for shipping shall cause the ship to be detained or released accordingly, but if they differ, the Minister responsible for shipping may act as if the requisition had not been made, and the owner and master shall have the like appeal touching the report of the surveyor as is before provided by this section;

(f) where a ship has been provisionally detained, the Minister responsible for shipping may at any time, if he thinks it expedient, refer the matter to the court of survey;

(g) the Minister responsible for shipping may at any time, if satisfied that a ship detained under this section is not unsafe, order her to be released either upon or without any conditions.

(2) Any person appointed by the Minister responsible for shipping for the purpose (in this Act referred to as a detaining officer) shall have the same power as the Minister responsible for shipping has under this section of ordering the provisional detention of a ship for the purpose of being surveyed, and of appointing a person or persons to survey her and if he thinks that a ship so detained by him is not unsafe may order her to be released.

(3) A detaining officer shall forthwith report to the Minister responsible for shipping any order made by him for the detention or release of a ship.

(4) An order for the detention of a ship, provisional or final, and an order varying the same, shall be served as soon as may be on the master of the ship.

(5) A ship detained under this section shall not be released by reason of her British register being subsequently closed.

(6) The Captain of the Port shall be a detaining officer for the purposes of this Act and, in addition, the Minister responsible for shipping may appoint any other fit persons to act as detaining, officers, and may remove any such officers. A detaining officer shall be paid such salary or remuneration (if any) as the Minister responsible for shipping may direct, and shall for the purpose of his duties have all the powers of a Board of Trade inspector under the Merchant Shipping Acts.

(7) A detaining officer and a person authorized to survey a ship under this section shall for that purpose have the same power as a person appointed by a court of survey to survey a ship, and the provisions of this Act with respect to the person so appointed shall apply accordingly.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Liability for costs and damages.

117.(1) If it appears that there was not reasonable and probable cause, by reason of the condition of the ship or the act or default of the owner, for the provisional detention of a ship under this Part as an unsafe ship, the Government shall be liable to pay the owner of the ship his costs of and incidental to the detention and survey of the ship, and also compensation for any loss or damage sustained by him by reason of the detention or survey.

(2) If a ship is finally detained under this Act, or if it appears that a ship provisionally detained was, at the time of that detention, an unsafe ship within the meaning of this Part, the owner of the ship shall be liable to pay to the Government its costs of and incidental to the detention and survey of the ship, and those costs shall, without prejudice to any other remedy, be recoverable as salvage is recoverable.

(3) For the purpose of this section the costs of and incidental to any proceeding before a court of survey, and a reasonable amount in respect of the remuneration of the surveyor or officer of the Government, shall be part of the costs of the detention and survey of the ship, and any dispute as to the amount of those costs may be referred to the Registrar of the Supreme Court who shall, on request by the Minister responsible for shipping, ascertain and certify the proper amount of those costs.

(4) An action for any costs or compensation payable by the Government under this section may be brought in the Supreme Court against the Attorney-General in a suit instituted by the plaintiff against the Attorney-General as defendant, and the rules of court for the time being in force shall apply to such suit.

Power to require from complainant security for costs.

118.(1) Where a complaint is made to the Minister responsible for shipping or a detaining officer that a British ship is unsafe, the Minister responsible for shipping may, if he thinks fit, require the complainant to give security to the satisfaction of the Minister responsible for shipping for the costs and compensation which the Government may become liable to pay as hereinafter mentioned.

(2) Such security shall not be required where the complaint is made by one-fourth, being not less than three, of the seamen belonging to the ship, and is not in the opinion of the Minister responsible for shipping or the detaining officer frivolous or vexatious, and the Minister responsible for shipping or such officer shall, if the complaint is made in sufficient time before the sailing of the ship, take proper steps for ascertaining whether the ship ought to be detained.

(3) Where a ship is detained in consequence of any complaint, and the circumstances are such that the Government is liable under this Act to pay to the owner of the ship any costs or compensation, the complainant shall be liable to pay to the Government all such costs and

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

compensation as the Government incurs or is liable to pay in respect of the detention and survey of the ship.

Application to foreign ships of provisions as to detention.

119.(1) Where a foreign ship being at Gibraltar is unsafe by reason of the defective condition of her hull, equipments or machinery, or by reason of overloading or improper loading, or by reason of undermanning, the provisions of this Part with respect to the detention of ships shall apply to that foreign ship as it she were a British ship, with the following modifications:–

(i) a copy of the order for the provisional detention of the ship shall be forthwith served on the consular officer for the country to which the ship belongs;

(ii) where a ship has been provisionally detained, the consular officer, on the request that the owner or master of the ship, may require that the person appointed by the Minister responsible for shipping to survey the ship shall be accompanied by such person as a consular officer may select, and in that case, if the surveyor and that person agree, the Minister responsible for shipping shall-cause the ship to be detained or released accordingly, but if they differ, the Minister responsible for shipping may act as if the requisition had not been made, and the owner and master shall have the like appeal to a court of survey touching the report of the surveyor as is hereinafter provided in the case of a British ship; and

(iii) where the owner or master of the ship appeals to the court of survey, the consular officer, on his request may appoint a competent person to be assessor in the case in lieu of one of the assessors who would otherwise be appointed by the Minister responsible for shipping under section 149.

(2) Nothing in the foregoing provisions of this section shall affect any foreign ship not bound for Gibraltar which comes into Gibraltar for any purpose other than the purpose of embarking or landing passengers or taking in or discharging cargo or taking in bunker coal or oil fuel or any material for the purpose of refuelling, or taking in water or stores.

Survey of ships alleged by seamen to be unseaworthy.

120.(1) Whenever in any proceeding against any seaman or apprentice belonging to any ship for the offence of desertion, or absence without leave or for otherwise being absent from his ship without leave, it is alleged by one–fourth, or if their number exceeds twenty by not less than five, of the seamen belonging to the ship, that the ship is by reason of unseaworthiness, overloading, improper loading, defective equipment or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in the ship is insufficient, the court having cognizance of the case shall take such means as may be in its power to satisfy itself concerning the truth or untruth of the allegation, and shall for that purpose receive the evidence of the persons making the same, and may summon any other witnesses whose evidence it may

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

think it desirable to hear, and shall, if satisfied that the allegation is groundless, adjudicate in the case, but if not so satisfied shall before adjudication cause the ship to be surveyed.

(2) A seaman or apprentice charged with desertion, or with quitting his ship without leave, shall not have any right to apply for a survey under this section unless he has before quitting his ship complained to the master of the circumstances so alleged in justification.

(3) For the purposes of this section the court shall require any surveyor of ships appointed under this Act, or any person appointed for the purpose by the Minister responsible for shipping, or, if such a surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court and having no interest in the ship, her freight or cargo, to survey the ship, and to answer any question concerning her which the court thinks fit to put.

(4) Such surveyor or other person shall survey the ship, and make his written report to the court, including an answer to every question put to him by the court, and the court shall cause the report to be communicated to the parties, and, unless the opinions expressed in the report are proved to the satisfaction of the court to be erroneous, shall determine the questions before it in accordance with those opinions.

(5) Any person making a survey under this section shall for the purposes thereof have all the powers of a Board of Trade inspector under the Merchant Shipping Acts.

(6) The costs (if any) of the survey shall be determined by the Minister responsible for shipping according to a scale of fees to be fixed by him.

(7) If it is proved that the ship is in a fit condition to proceed to sea, or that the accommodation is sufficient, as the case may be, the costs of the survey shall be paid by the person upon whose demand, or in consequence of whose allegation the survey was made, and may be deducted by the master or owner out of the wages due or to become due to that person, and shall be paid over to the Government.

(8) If it is proved that the ship is not in a fit condition to proceed to sea, or that the accommodation is insufficient, as the case may be, the master or owner of the ship shall pay the costs of the survey to the Government, and shall be liable to pay to the seaman or apprentice, who has been detained in consequence of the proceeding before the court under this section, such compensation for his detention as the court may award.

PART V.
PROVISIONS RELATING TO LOAD LINES.

Implementation of Merchant Shipping (Load Lines) Act 1967, etc.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

121.(1) Subject to section 122 the provisions of the Merchant Shipping (Load Lines) Act, 1967 (hereinafter referred to as "the 1967 Act") and the load line rules made thereunder shall mutatis mutandis apply in relation to–

(a) ships registered in Gibraltar to the same extent as if such ships were registered in the United Kingdom, and

(b) ships not registered in Gibraltar while they are in Gibraltar.

(2) Whenever there is a conflict between the provision of the 1967 Act or the load line rules made thereunder and the provisions of this Act the provisions of that Act or the said rules as the case may be, shall prevail to the extent of the conflict.

Exemptions.

122.(1) Section 121 shall not apply in rleation to–

(a) ships engaged solely in trading in the Bay of Gibraltar,

(b) ships exempted under subsection (2) of this section,

(c) ships solely engaged in fishing,

(d) pleasure yeachts,

(e) ships of less than one hundred and fifty tons gross tonnage.

(2) The powers of the Board of Trade under section 18 of the 1967 Act may be exercised by the Minister responsible for shipping by regulations as if "Gibraltar" were substituted for "the United Kingdom.

123 to 132. *Revoked*

PART VI.
SPECIAL PROVISIONS RELATING TO PART V.

Notice to be given to consular officer where proceedings taken in respect of foreign ship.

133. Where a ship other than a ship registered in Gibraltar or in the United Kingdom is detained in pursuance of the provisions of section 101A, and where any proceedings are taken thereunder against the master or owner of any such ship, notice shall forthwith be served on the consular officer at Gibraltar for the country to which the ship belongs and such notice shall specify the grounds on which the ship has been detained or the proceedings have been taken.

Cost of detaining ships.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

134. Where a ship is detained in pursuance of any provision of section 101A or Part V which provides for the detention of a ship until a certain event occurs, section 117(2) shall apply as if the ship had been finally detained within the meaning of that subsection.

PART VII.
SPECIAL SHIPPING INQUIRIES
AND COURTS.

Inquiries and Investigations as to Shipping Casualties.

General power of inquiry or investigation into shipping casualties and conduct of officers.

135.(1) Inquiries or investigations may be made under this Part as to shipwrecks, or other casualties affecting ships, or as to charges of incompetency, or misconduct on the part of masters, mates or engineers of ships, in the following cases, namely:–

(a) where a shipwreck or casualty occurs to a British ship on or near the coasts of Gibraltar or to a British ship in the course of a voyage to Gibraltar; or

(b) where a shipwreck or casualty occurs in any part of the world to a British ship registered in Gibraltar; or

(c) where some of the crew of a British ship which has been wrecked or to which a casualty has occurred, and who are competent witnesses to the facts, are found in Gibraltar; or

(d) where the incompetency or misconduct has occurred on board a British ship on or near the coasts of Gibraltar, or on board a British ship in the course of a voyage to Gibraltar; or

(e) where the incompetency or misconduct has occurred on board a British ship registered in Gibraltar; or

(f) when the master, mate or engineer of a British ship who is charged with incompetency or misconduct on board that British ship is found in Gibraltar.

(2) A court authorized to make any such inquiry or investigation shall have the same jurisdiction over the matter in question as if it had occurred within its ordinary jurisdiction, but subject to all provisions, restrictions and conditions which would have been applicable if it had so occurred.

(3) No such inquiry or investigation shall be held into any matter which has once been the subject of an investigation or inquiry and has been reported on by a competent court or tribunal

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

in any part of Her Majesty's dominions, or in respect of which the certificate of a master, mate or engineer has been cancelled or suspended by a naval court under powers conferred by the Merchant Shipping Acts.

(4) Where an investigation or inquiry has been commenced in the United Kingdom wit reference to any matter an inquiry or investigation with reference to the same matter shall not be held under this section.

(5) The court or tribunal holding an inquiry or investigation under this section shall have the same power of cancelling and suspending certificates (whether issued under this Act or the Merchant Shipping Acts), and shall exercise those powers in the same manner as a court or tribunal holding a similar investigation or inquiry in the United Kingdom.

(6) The Board of Trade may order the rehearing of any such inquiry or investigation held in Gibraltar in like manner as they may order the rehearing of a similar investigation or inquiry in the United Kingdom, but if an application for rehearing either is not made or is refused, an appeal shall lie from any order or finding of the court holding the inquiry to the High Court in England:

Provided that an appeal shall not lie–

(a) from any order or finding on an inquiry into a casualty affecting a ship registered in Gibraltar; or

(b) from a decision affecting the certificate of a master, mate or engineer, if that certificate has not been granted either in the United Kingdom or in a British possession, under the authority of the Merchant Shipping Acts.

Preliminary inquiry into shipping casualties.

136.(1) Where a shipping casualty has occurred a preliminary inquiry may be held respecting the casualty by the Captain of the Port or any other person appointed for the purpose by the Minister responsible for shipping,

(2) For the purposes of any such inquiry the person holding the same shall have the powers of a Board of Trade inspector under the Merchant Shipping Acts.

Formal investigation of shipping casualties.

137.(1) A person authorized as aforesaid to make a preliminary inquiry shall in any case where it appears to him requisite or expedient (whether upon a preliminary inquiry or without holding such an inquiry) that a formal investigation should be held, and in any case where the Minister responsible for shipping so directs, apply to the magistrates' court to hold a formal investigation, and that court shall thereupon hold the formal investigation.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) The court holding any such formal investigation shall hold the same with the assistance of one or more assessors of nautical, engineering or other special skill or knowledge, to be appointed by the Minister responsible for shipping.

(3) Where a formal investigation involves or appears likely to involve any question as to the cancelling or suspension of the certificate of a master, mate or engineer, the court shall hold the investigation with the assistance of not less than two assessors having experience in the merchant service.

(4) It shall be the duty of the person who has applied to a court to hold a formal investigation to superintend the management of the case, and to render such assistance to the court as is in his power.

(5) The court after hearing the case shall make a report to the Minister responsible for shipping containing a full statement of the case and of the opinion of the court thereon, accompanied by such report of, or extracts from, the evidence, and such observations as the court thinks fit.

(6) Each assessor shall either sign the report or state in writing to the Minister responsible for shipping his dissent therefrom and the reasons for that dissent.

(7) The court may make such order as the court thinks fit respecting the costs of the investigation, or any part thereof, and such order shall be enforced in a summary manner.

(8) The Minister responsible for shipping may, if in any case he thinks fit so to do, pay the costs of any such formal investigation.

(9) For the purposes of this section the court holding a formal investigation shall have the powers of the magistrates' court.

(10) In accordance with Article 19 of Part 7 of the British Commonwealth Merchant Shipping Agreement, 1931[*], a formal investigation shall not be held into a casualty occurring to ship registered in another part of the Commonwealth save at the request, or with the consent of, the government of that part in which the ship is registered:

Provided that this restriction shall not apply when a casualty occurs on or near the coasts of Gibraltar, or whilst the ship is wholly engaged in trading in the Bay of Gibraltar.

Method of conducting formal investigations.

[*] *Cmnd. 3994. This agreement is deemed terminated with effect from 7 April 1982.*

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

138.(1) Every formal investigation into a shipping casualty shall be conducted in such manner that if a charge is made against any person, that person shall have an opportunity of making a defence.

(2) Formal investigations into shipping casualties under section 137 shall be held in the court ordinarily used as the magistrates' court.

Inquiry in case of loss of life from fishing vessel's boat.

139. When any loss of life arises by reason of any casualty happening to or on board any boat belonging to a fishing vessel, the Minister responsible for shipping may, if he thinks fit, cause an inquiry to be made or a formal investigation to be held as in the case of a shipping casualty, and the provisions of this Act relating thereto shall apply accordingly.

Power as to Certificates of Officers and Others.

Power of the Minister responsible for shipping as to certificate.

140. The Minister responsible for shipping may suspend or cancel the certificate granted under section 7 to any person if it is shown that the grantee has been convicted of any offence.

Power of court of investigation or inquiry as to certificate.

141. (1) The certificate of competency granted to any deck officer or to any marine engineer officer or marine engine operator under the Regulations mentioned in section 3A or 3B, as the case may be, may be cancelled or suspended–

(a) by a court holding a formal investigation into a shipping casualty under this Part, if the court finds that the loss or abandonment of, or serious damage to, any ship, or loss of life has been caused by his wrongful act or default:

Provided that the court shall not cancel or suspend a certificate unless one at least of the assessors concurs in the finding of the court; or

(b) by a court holding an inquiry under this Part, into the conduct of a holder of a certificate of competency granted under the Regulations mentioned in section 3A or 3B, as the case may be, if it finds that he is incompetent, or has been guilty of any gross act of misconduct, drunkenness or tyranny, or that in a case of collision he has failed to render such assistance or give such information as is required under Part V of the Merchant Shipping Act, 1894.

(2) Where any case before any such court involves a question as to the cancelling or suspending of a certificate, that court shall, at the conclusion of the case or as soon afterwards as possible, state in open court the decision to which it has come with respect to the cancelling or suspending thereof.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(3) The court shall in all cases send a full report on the case with the evidence to the Governor, and shall also, if it determines to cancel or suspend any certificate, send the certificate cancelled or suspended to the Governor with its report.

(4) A certificate shall not be cancelled or suspended by a court under this section, unless a copy of the report or a statement of the case on which the investigation or inquiry has been ordered, has been furnished before the commencement of the investigation or inquiry to the holder of the certificate.

Inquiry into conduct of certificated officer.

142.(1) If the Minister responsible for shipping, either upon the report of the Captain of the Port or otherwise, has reason to believe that any master, mate or certificated engineer is from incompetency or misconduct unfit to discharge his duties, or that in a case of collision he has failed to render such assistance or give such information as is required under Part V of the Merchant Shipping Act, 1894, the Minister responsible for shipping may cause an inquiry to be held by the magistrates' court, the Captain of the Port or some other person designated by the Minister responsible for shipping.

(2) Where an inquiry is held by the Captain of the Port or a person appointed by the Governor, the Captain of the Port or such person–

(a) shall hold the inquiry with the assistance of a competent legal assistant appointed by the Governor;

(b) shall have all the powers of a Board of Trade inspector under the Merchant Shipping Acts;

(c) shall give any master, mate or engineer against whom a charge is made an opportunity of making his defence either in person or otherwise, and may summon him to appear;

(d) may make such order with regard to the costs of the inquiry as he thinks just; and

(e) shall send a report upon the case to the Governor.

(3) Where the inquiry is held by the magistrates' court the inquiry shall be conducted and the results reported in the same manner, and the court shall have the like powers, as in the case of a formal investigation into a shipping casualty under this Part of this Act:

Provided that, if the Minister responsible for shipping so directs, it shall be the duty of the person who has brought the charge against the master, mate or engineer to the notice of the Minister responsible for shipping, to conduct the case and that person shall in that case, for the purpose of this Act, be deemed to be the party having the conduct of the case.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Power to summon witness to inquiry.

142A.(1) The persons holding an inquiry under section 142 may–

(a) by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and

(b) take evidence on oath (and for that purpose administer oaths) or, instead of administering an oath, require the person examined to make a solemn affirmation.

(2) If on the failure of a person to attend such an inquiry in answer to a summons under this section–

(a) the persons holding the inquiry are satisfied by evidence on oath–

(i) that the person in question is likely to be able to give material evidence or produce any document which relates to any matter in question at the inquiry, and

(ii) that he has been duly served with the summons, and

(iii) that a reasonable sum has been paid or tendered to him for costs and expenses, and

(b) it appears to them that there is no just excuse for the failure,

they may issue a warrant to arrest him and bring him before the inquiry at a time and place specified in the warrant.

(3) If any person attending or brought before such an inquiry refuses without just excuse to be sworn or give evidence, or to produce any document, the persons holding the inquiry may–

(a) commit him to custody until the end of such period not exceeding one month as may be specified in the warrant or until he gives evidence or produces the document (whichever occurs first), or

(b) impose on him a fine not exceeding £1,000,

or both.

(4) A fine imposed under subsection (3) (b) shall be treated for the purposes of its collection, enforcement and remission as having been imposed by the magistrates' court, and the persons

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

holding the enquiry shall, as soon as practicable after imposing the fine, give particulars of it to the clerk of that court.

Removal of master by Supreme Court.

143.(1) The Supreme Court may remove the master of any ship within the jurisdiction of the court, if that removal is shown to the satisfaction of the court by evidence on oath to be necessary.

(2) The removal may be made upon the application of any owner of the ship or his agent, or of the consignee of the ship, or of any certificated mate, or of one–third or more of the crew of the ship.

(3) The court may appoint a new master instead of the one removed but, where the owner, agent or consignee of the ship is within the jurisdiction of the court, such an appointment shall not be made without the consent of that owner, agent or consignee.

(4) The court may also make such order and require such security in respect of the costs of the matter as the court thinks fit.

Delivery of certificate cancelled or suspended.

144.(1) A master, mate or engineer whose certificate is cancelled or suspended by any court or by the Minister responsible for shipping shall deliver his certificate–

(a) if cancelled or suspended by a court to that court on demand; and

(b) if not so demanded, or if it is cancelled or suspended by the Minister responsible for shipping, to the Minister responsible for shipping, or as the Minister responsible for shipping directs.

(2) A master, mate or engineer who fails to comply with this section, is guilty of an offence and is liable on conviction to a fine of £400.

Power of Minister responsible for shipping to restore certificate.

145. The Minister responsible for shipping may, if he thinks that the justice of the case requires it, re-issue and return the certificate granted under this Act of a master, mate or engineer which has been cancelled or suspended, or shorten the time for which it is suspended, or grant in place thereof a certificate of the same or any lower grade.

Rehearing of Investigation and Inquiries,

Rehearing of inquiries and investigations.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

146.(1) The Minister responsible for shipping may, in any case where under this Part a formal investigation into a shipping casualty, or an inquiry into the conduct of a master, mate or engineer has been held, order the case to be reheard either generally or as to any part thereof, and shall do so–

(a) if new and important evidence which could not be produced at the investigation or inquiry has been discovered; or

(b) if for any other reason there has in his opinion been ground for suspecting that a miscarriage of justice has occurred.

(2) The Minister responsible for shipping may order the case to be reheard by the court or person by whom the case was heard in the first instance, or by a person appointed for the purpose, and the case shall be so reheard accordingly.

(3) Where on any such investigation or inquiry, a decision has been given with respect to the cancelling or suspension of the certificate of a master, mate or engineer, and an application for a rehearing under this section has not been made or has been refused, an appeal shall lie from the decision to the Supreme Court.

(4) Any rehearing or appeal under this section shall be subject to and conducted in accordance with such conditions and regulations as may be prescribed by rules of court made in relation thereto under the powers contained in this Part.

Supplemental Provisions as to Investigations and Inquiries.

Appeal from decision on investigation as to shipping casualties.

147. Where on any investigation or inquiry under the provisions of this Part, the court finds that a shipping casualty has been caused or contributed to by the wrongful act or default of any person, and an application for rehearing has not been made under section 146, or has been refused, the owner of the ship, or any other person who, having an interest in the investigation or inquiry, has appeared at the hearing and is affected by the decision of the court, may appeal from that decision in the same manner and subject to the same conditions in and subject to which a master may appeal under that section against a decision with respect to the cancelling or suspension of his certificate.

Rules of Court.

148. The Chief Justice may make rules of court for carrying into effect the enactments relating to formal investigations and to any rehearing of, or appeal from, any investigation or inquiry held under this Part and in particular with respect to the procedure, the summoning of the parties, the persons allowed to appear, the notice to those parties or persons affected, and the amount and application of fees.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Constitution of court of survey.

149. The court of survey shall consist of the Chief Justice or other person appointed by the Minister responsible for shipping, sitting with two assessors (who shall be persons of nautical, engineering or other special skill and experience) also appointed by the Minister responsible for shipping.

Power and procedure of court of survey.

150.(1) The court of survey shall hear every case in open court.

(2) Each member of the court may survey the ship, and shall have for the purposes of this Act all the powers of a Board of Trade inspector under the Merchant Shipping Acts.

(3) The court may appoint any competent person or persons to survey the ship and report thereon to the court,

(4) Each member of the court and any person appointed by the court to survey a ship, may go on board the ship and inspect the same and every part thereof, and the machinery, equipment and cargo, and may require the unloading or removal of any cargo, ballast or tackle, an any person who wilfully impedes such member of the court or person in the execution of the survey, or fails to comply with any requisition made by him, is guilty of an offence and is liable on conviction to a fine of £200.

(5) The court shall have the same power as the Minister responsible for shipping has to order the ship to be released or finally detained, but, unless one of the assessors concurs in an order for the detention of the ship, the ship shall be released.

(6) The owner and master of the ship and any person appointed by the owner or master, and also any person appointed by the Minister responsible for shipping, may attend at any inspection or survey made in pursuance of this section.

(7) The court shall send its report to the Minister responsible for shipping and each assessor shall either sign the report or report to the Minister responsible for shipping the reasons for his dissent,

Rules for procedure of court of survey, etc.

151. The Chief Justice may make rules of court to carry into effect the provisions of this Act with respect to the court of survey, and in particular with respect to the summoning of and procedure before the court, the requiring on an appeal security for costs and damages, and the amount and application of fees.

Payments to Officers of Courts.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Payments to officers of courts.

152. There may be paid out of the Consolidated Fund to any member of a court of survey or investigation under this Part, or to any other officer or person appointed for the purpose of any court of survey or investigation under this Part, such remuneration (if any) as the Minister responsible for shipping may direct.

PART VIII.
WRECK AND SALVAGE.
Vessels in Distress.

Interpretation.

153.(1) In this Part, unless the context otherwise requires,–

"wreck" includes jetsam, flotsam, lagan and derelict found in or on the shores of Gibraltar;

"salvage" includes all expenses, properly incurred by the salvor in the performance of the salvage services.

(2) This Part shall have effect subject to the provisions of section 171A below.

Duty of receiver where vessel in distress.

154. (1) Where a British or foreign vessel is wrecked, stranded or in distress at any place on or near the coasts of Gibraltar, the receiver of wreck shall, upon being made acquainted with the circumstance, forthwith proceed there, and upon his arrival shall take the command of all persons present, and shall assign such duties and give such directions to each person as he thinks fit for the preservation of the vessel and of the lives of the persons belonging to the vessel (in this Part referred to as shipwrecked persons) and of the cargo and apparel of the vessel.

(2) A person who wilfully disobeys the directions of the receiver is guilty of an offence and is liable on conviction to a fine of £400, but the receiver shall not interfere between the master and the crew of the vessel in reference to the management thereof, unless he is requested to do so by the master.

Powers of receiver in case of vessels in distress.

155.(1) The receiver may, with a view to such preservation of shipwrecked persons, or of the vessel, cargo or apparel–

(a) require such persons as he thinks necessary to assist him;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) require the master or other person having the charge of any vessel near at hand to give such aid with his men or vessel, as maybe in his power;

(c) demand the use of any motor vehicle, wagon, cart or other vehicle or any draught animal that may be near at hand.

(2) A person who refuses without reasonable cause to comply with any such requisition or demand, is guilty of an offence and is liable on conviction to a fine of £200, but a person shall not be liable to pay any duty or licence in respect of any such motor vehicle, wagon, cart or other vehicle or animal, by reason only of the use of the same under this section.

Power of receiver to suppress plunder and disorder by force.

156.(1) Whenever a vessel is wrecked, stranded or in distress as aforesaid, and any person plunders, creates disorder or obstructs the preservation of the vessel or of the shipwrecked persons or of the cargo or apparel of the vessel, the receiver may cause that person to be apprehended.

(2) The receiver may use force for the suppression of any such plundering, disorder or obstruction and may command all Her Majesty's subjects to assist him in so using force.

(3) If any person is killed, maimed or hurt by reason of his resisting the receiver or any person acting under the orders of the receiver in the execution of the duties by this Part committed to the receiver, neither the receiver nor the person acting under his orders shall be liable to any punishment, or to pay any damages by reason of the person being so killed, maimed or hurt.

Exercise of powers of receiver in his absence.

157.(1) Where a receiver is not present, the following officers or persons in succession (each in the absence of the other, in the order in which they are named), namely, any revenue officer, justice, commissioned officer on full pay in the naval, military or air service of Her Majesty, may do anything by this Part authorized to be done by the receiver.

(2) Any person acting under this section for a receiver shill, with respect to any goods or articles belonging to a vessel the delivery of which to the receiver is required by this Act, be considered as the agent of the receiver, and shall place the same in the custody of the receiver, but' he shall not be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Examination in respect of ships in distress.

158.(1) Where any ship, British or foreign, is or has been in distress on the coasts of Gibraltar, the receiver of wreck shall, as soon as conveniently may be, examine on oath (and he is hereby

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

empowered to administer the oath) any person belonging to the ship, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters, that is to say:–

(a) the name and description of the ship;

(b) the name of the master and of the owners;

(c) the names of the owners of the cargo;

(d) the ports from and to which the ship was bound;

(e) the occasion of the distress of the ship;

(f) the services rendered; and

(g) such other matters or circumstances relating to the ship, or to the cargo on board the same, as the person holding the examination thinks necessary.

(2) The receiver of wreck shall take the same down in writing and shall send one copy thereof to the Minister responsible for shipping and another copy to the Principal Clerk at Lloyd's in London.

(3) The receiver of wreck shall, for the purposes of such examination, have all the powers of a Board of Trade inspector under the merchant shipping Acts.

Dealing with Wreck.

Provision as to wreck found in Gibraltar.

159.(1) Where any person finds or takes possession of any wreck within the limits of Gibraltar or finds or takes possession of any wreck outside the limits of Gibraltar and brings that wreck within the limits of Gibraltar, he shall,–

(a) if he is the owner thereof, give notice to the receiver stating that he has found or taken possession of the same, and describing the marks by which the same may be recognized;

(b) if he is not the owner thereof, as soon as possible deliver the same to the

(2) A person who fails without reasonable cause, to comply with subsection (1) is guilty of an offence and is liable on conviction to a fine of £100, and shall in addition, if he is not the owner, forfeit any claim to salvage, and shall be liable to pay to the owner of the wreck if it is claimed or, if it is unclaimed to the person entitled to the same, double the value thereof, to be recovered in the same way as a fine of a like amount under this Act.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Penalty for taking wreck at time of casualty.

160.(1) Where a vessel is wrecked, stranded or in distress at any place on or near the coasts of Gibraltar, any cargo or other articles belonging to or separated from the vessel, which may be washed on shore or otherwise lost or taken from the vessel shall be delivered to the receiver.

(2) A person, whether the owner or not, who secrets or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver or any person authorized by him to demand the same, is guilty of an offence and is liable on conviction to a fine of £l00.

(3) The receiver or any person authorized as aforesaid may take any such cargo or article by force from the person so refusing to deliver the same.

Notice of wreck to be given by receiver.

161.Where a receiver takes possession of any wreck he shall within forty-eight hours–

(a) cause to be posted at the Port Office a description of the wreck and of any marks by which it is distinguished; and

(b) if in his opinion the value of the wreck exceeds £20 also transmit a similar description to the Principal Clerk at Lloyd's in London.

Claims of owners to wreck.

162.(1) The owner of any wreck in the possession of the receiver, upon establishing his claim to the same to the satisfaction of the receiver within one year from the time at which the wreck came into the possession of the receiver, shall, upon paying the salvage, fees and expenses due, be entitled to have the wreck or the proceeds thereof delivered up to him.

(2) Where a foreign ship or any articles belonging to or forming pint of a foreign ship, which has been wrecked on or near the coasts of Gibraltar, or belonging to and forming part of the cargo, are found on or near those coasts, or are brought into Gibraltar, the consul of the country to which the ship or in the case of cargo to which the owners of the cargo may have belonged, or any consular officer of that country authorized in that behalf, shall, in the absence of the owner and of the master or other agent of the owner, be deemed to be the agent of the owner, so far as relates to the custody and disposal of the wrecked ship or of such articles.

Immediate sale of wreck by receiver in certain cases.

163. A receiver may at any time sell any wreck in his custody, if in his opinion–

(a) it is under the value of £5; or

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept; or

(c) it is not of sufficient value to pay for warehousing,

and the proceeds of the sale shall, after defraying the expenses thereof, be held by the receiver for the same purposes and subject to the same claims, fights and liabilities as if the wreck had remained unsold.

Rights of Crown to and disposal of unclaimed wreck.

164. (1) Her Majesty is entitled to all unclaimed wreck to which this Part relates.

(2) Where no owner establishes a claim to any wreck in the possession of a receiver, within one year after it came into his possession, the receiver shall sell the same and shall pay the proceeds of the sale (after deducting therefrom the expenses of the sale, and any other expenses incurred by him, and his fees, and paying thereout to the salvors such amount of salvage as the Minister responsible for shipping may in each case, or by any general rule, determine) into the Treasury for the benefit of the crown.

Removal of wreck by receiver and recovery of expenditure.

165.(1) Where any vessel is sunk, stranded or abandoned at Gibraltar in such manner as, in the opinion of the receiver, to be, or likely to become, an obstruction or danger to navigation or to cause by means of silting or otherwise any obstruction to the navigation of any craft whatsoever, the receiver may–

(a) take possession of, and raise, remove or destroy the whole or any part of the vessel;

(b) light or buoy any such vessel or part until the raising, removal or destruction thereof; and

(c) sell, in such manner as he may think fit any vessel or part so raised or removed, and also any other property recovered in the exercise of his powers under this section, and out of the proceeds of the sale reimburse himself for the expenses incurred by him in relation thereto under this section, and the receiver shall hold the surplus (if any) of the proceeds in trust for the persons entitled thereto:

Provided as follows:–

(i) a sale shall not (except in the case of property which is of a perishable nature, or which would deteriorate in value by delay) be made under this section until at least seven clear days' notice of the intended sale has been given by advertisement in some local newspaper; and

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(ii) at any time before any property is sold under this section, he owner thereof shall be entitled to have the same delivered to him on payment to the receiver of the fair market value thereof, to be ascertained by agreement between the receiver and the owner, or failing agreement by some person to be named for the purpose by the Minister responsible for shipping, and the sum paid to the receiver as the value of any property under this provision shall, for the purposes of this section, be deemed to be the proceeds of sale of that property.

(2) Any expenditure incurred by the receiver in removing any vessel or part thereof or other property as provided for by this section, and which is not recovered out of the proceeds of the sale of such vessel or part thereof or other property shall be a debt due to the Crown by the owner or agent of the vessel and may be sued for the recovered in the Supreme Court in the name of the Attorney-General.

Powers of removal to extend to tackle, cargo, etc.

166. The provisions of this Part relating to removal of wrecks shall apply to every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel in the same manner as if it were included in the word "vessel," and for the purposes of these provisions any proceeds of sale arising from a vessel and from the cargo thereof or any other property recovered therefrom, shall be regarded as a common fund.

Protection of Crown interests in wrecks.

167.(1) Without prejudice to section 219, the powers conferred on the receiver by sections 165 and 166 shall not be exercisable–

(a) in relation to any vessel sunk, stranded or abandoned by design by or under the orders of a person acting on behalf of Her Majesty or an officer or servant of the Crown acting in the course of his duty as such;

(b) except with the consent of the King's Harbour Master, which may be given with or without such a direction as is referred to in paragraph (b) of subsection (2) of this section, in relation to any vessel which is not excluded from the exercise of those powers by virtue of being a vessel belonging to Her Majesty, but which, at the time when the vessel was sunk, stranded or abandoned–

(i) had been required to be placed at the disposal of Her Majesty or of a Government department; and

(ii) was appropriated to the service, under the direction and control of the Admiralty, of Her Majesty's ships of war.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) The receiver shall give notice in writing to the King's Harbour Master of any decision of the receiver to exercise in relation to any vessel any of the powers aforesaid other than the power of lighting and buoying and, except in a case which is in the opinion of the receiver a case of emergency, shall not proceed with the exercise thereof–

(a) except with the consent of the King's Harbour Master before the expiration of a period of fourteen days from the giving of the notice; or

(b) if before the expiration of that period there is served on the receiver a direction by the King's Harbour Master that those powers shall not be exercised in relation to that vessel except in such case as aforesaid,

and where in any such case the receiver proceeds to exercise those powers without the consent and before the expiration of the period mentioned in paragraph (a) of this subsection or after a direction has been served on him as aforesaid, he shall not in the exercise of those powers use any explosives and, if before the expiration of the period aforesaid such a direction is served on him, shall not be entitled to exercise the power of sale conferred by section 165:

Provided that–

(i) the receiver shall not be required to give notice under this subsection in respect of any vessel in respect of which he has received a consent under paragraph (b) of subsection (1) of this section, but any direction such as is referred to in paragraph (b) of this subsection accompanying that consent shall be deemed for the purposes of this and subsection (3) to have been duly served under paragraph (b) of this subsection;

(ii) the prohibition on the use of explosives imposed by this subsection shall not apply to the use for cutting away the superstructure of a vessel of such small explosive charges as may for the time being be approved by the King's Harbour Master for the purposes of this proviso.

(3) Where a direction is served in respect of any vessel under paragraph (b) of subsection (2) the receiver may from time to time apply to the King's Harbour Master for the reimbursement of any expenses reasonably incurred by him in marking, lighting, watching, buoying, controlling or giving warning to shipping of the presence of that vessel.

(4) *Omitted*.

Offences in Respect of Wreck.

Taking wreck to foreign port.

168. A person who takes into any foreign port any vessel stranded, derelict or otherwise in distress, found on or near the coast of Gibraltar, or any part of the cargo or apparel thereof, or

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

anything belonging thereto, or any wreck so found and there sells the same, is guilty of an offence and is liable on conviction to imprisonment for five years.

Interfering with wrecked vessel or wreck.

169.(1) A person shall not without the leave of the master board or endeavour to board any vessel which is wrecked, stranded or in distress, unless that person is, or acts by command of, the receiver or a person lawfully acting as such, and a person who acts in contravention of this subsection is guilty of an offence and is liable on conviction to a fine of £50, and the master of the vessel may repel him by force.

(2) A person shall not–

(a) impede or hinder, or endeavour in any way to impede or hinder, the saving of any vessel stranded or in danger of being stranded, or otherwise in distress on or near the coasts of Gibraltar, or of any part of the cargo or apparel thereof, or of any wreck; or

(b) secrete any wreck, or deface or obliterate any marks thereon; or

(c) wrongfully carry away or remove any part of a vessel stranded or in danger of being stranded, or otherwise in distress, on or near the coasts of Gibraltar, or any part of the cargo or apparel thereof, or any wreck,

and a person who acts in contravention of this subsection is guilty of an offence and is liable on conviction to a fine of £50, and that fine may be inflicted in addition to any punishment to which he may be liable by law under this Act or otherwise.

Summary procedure for concealment of wreck.

170.(1) Where a receiver suspects or receives information that any wreck is secreted or in possession of some person who is not the owner thereof, or that any wreck is otherwise improperly dealt with, he may apply to any justice of the peace for a search warrant, and that justice shall have power to grant such a warrant, and the receiver, by virtue thereof may enter any house or other place, wherever situate, and also any vessel, and search for, and seize and detain any such wreck there found.

(2) If any such seizure of wreck is made in consequence of information given by any person to the receiver, on a warrant being issued under this section, the informer shall be entitled, by way of salvage, to such sum not exceeding in any case £5 as the receiver may allow.

Salvage.

Salvage payable for saving life.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

171.(1) Where services are rendered wholly or in part within Gibraltar waters in saving life from any British or foreign vessel, or elsewhere in saving life from any British vessel registered in Gibraltar, there shall be payable to the salvor by the owner of the vessel, cargo or apparel saved, a reasonable amount of salvage, to be determined in case of dispute in manner hereinafter mentioned.

(2) Salvage in respect of the preservation of fife when payable by the owners of the vessel shall be payable in priority to all other claims for salvage.

Convention on Salvage to have force of law

171A.(1) The provisions of the International Convention on Salvage, 1989 as set out in Part I of Schedule 5 to this Act (in this section and in Part II of that Schedule referred to as "the Convention") shall have the force of law in Gibraltar.

(2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and subsection (1) above shall have effect subject to the provisions of that Part.

(3) If it appears to the Minister with responsibility for transport that the government of the United Kingdom has agreed to any revision of the Convention he may, by Order in the Gazette, make such modifications of Parts I and II of Schedule 5 to this Act as he considers appropriate in consequence of the revision.

(4) Nothing in subsection (1) or (2) above or in any modification made by virtue of subsection (3) above shall affect any rights or liabilities arising out of any salvage operations started or other acts done before the day on which this section or, as the case may be, the modification comes into force.

(5) This section may be brought into force before the entry into force of the Convention and as respects any such period any reference in the Convention to a State Party to the Convention shall be read as a reference to Gibraltar.

(6) The provisions of sections 171 to 179 shall have effect subject to the provisions of this section.

Salvage of cargo of wreck.

172.(1) Where any vessel is wrecked, stranded or in distress at any place on or near the coasts of Gibraltar, and services are rendered by any person in assisting that vessel or saving the cargo or apparel of that vessel or any part thereof, and where services are rendered by any person other than a receiver in saving any wreck, there shall be payable to the salvor by the owner of the vessel, cargo, apparel or wreck, a reasonable amount of salvage to be determined in case of dispute by the Supreme Court in the Admiralty jurisdiction.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) Disputes relating to salvage may be determined on the application either of the salvor or of the owner of the property saved, or of their respective agents.

Valuation of property by receiver.

173.(1) Where any dispute as to salvage arises, the receiver may, on the application of either party, appoint a valuer to value that property, and shall give copies of the valuation to both parties.

(2) Any copy of the valuation purporting to be signed by the valuer, and to be certified as a true copy by the receiver, shall be admissible as evidence in any subsequent proceeding.

(3) There shall be paid in respect of the valuation by the person applying for the same such fee as the Minister responsible for shipping may direct.

Detention of property liable for salvage by a receiver.

174.(1) Where salvage is due to any person under this Act, the receiver shall–

(a) if the salvage is due in respect of services rendered in assisting any vessel, or in saving life therefrom, or in saving the cargo or apparel thereof, detain the vessel and cargo or apparel; and

(b) if the salvage is due in respect of the saving of any wreck, and the wreck is not sold as unclaimed under this Act, detain the wreck.

(2) Subject as hereinafter mentioned, the receiver shall detain the vessel and the cargo and apparel or the wreck (hereinafter referred to as detained property) until payment is made for salvage, or process is issued for the arrest or detention thereof by some competent court.

(3) A receiver may release any detained property if security is given to his satisfaction or, if the claim for salvage exceeds £200 and any question is raised as to the sufficiency of the security, to the satisfaction of the Supreme Court.

(4) Any security given for salvage in pursuance of this section to an amount exceeding £5,000 may be enforced by the Supreme Court in the same manner as if bail had been given in that court.

Sale of detained property by receiver.

175.(1) The receiver may sell any detained property if the persons liable to pay the salvage in respect of which the property is detained are aware of the detention, in the following cases, that is to say:–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) where the amount is not disputed, and payment of the amount due is not made within twenty days after the amount is due; or

(b) where the amount is disputed and within one month of the decision of the Supreme Court neither payment of the sum due is made nor proceedings are commenced for the purpose of appeal.

(2) The proceeds of sale of detained property shall, after payment of the expenses of the sale, be applied by the receiver in payment of the expenses, fees and salvage, and, so far as not required for that purpose, shall be paid to the owners of the property, or any other persons entitled to receive the same.

Apportionment of salvage under £200 by receiver.

176.(1) Where the aggregate amount of salvage payable in respect of salvage services rendered in Gibraltar has been finally determined, either in manner provided by this Act or by agreement, and does not exceed £200, but a dispute arises as to the apportionment thereof among several claimants, the person liable to pay the amount may apply to the receiver for liberty to pay the same to him and the receiver shall, if he thinks fit, receive the same accordingly, and shall grant to the person paying the amount a certificate of the amount paid and of the services in respect of which it is paid, and that certificate shall be a full discharge and indemnity to the person by whom the money is paid, and to his vessel, cargo, apparel and effects against the claims of all persons whomsoever in respect of the services mentioned in the certificate.

(2) The receiver shall with all convenient speed distribute any amount received by him under this section among the persons entitled to the same on such evidence, and in such shares and proportions, as he thinks fit, and may retain any money which appears to him to be payable to any person who is absent.

(2A) Any decision by the receiver under subsection (2) above shall be made on the basis of the criteria contained in article 13 of the International Convention on Salvage, 1989 as set out in Part I of Schedule 5 below.

(3) A distribution made by a receiver in pursuance of this section shall be final and conclusive as against all persons claiming to be entitled to any portion of the amount distributed.

Appointment of Receiver of Wreck.

Appointment of receiver of wreck and his deputy.

177.(1) The Captain of the Port shall be the receiver of wreck (in this Part referred to as a receiver) and shall perform the duties of a receiver under this Part.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) The Minister responsible for shipping may appoint one or more deputy receivers of wreck who, in the absence of the receiver, shall, for the purposes of this Act, be deemed to be a receiver and have all the powers and perform all the duties of a receiver.

Fees of Receiver of Wreck.

Receivers' fees.

178.(1) There shall be paid to every receiver the expenses properly incurred by him in the performance of his duties, and also, in respect of the several matters specified in the Twentieth Schedule to the Merchant Shipping Act, 1894, such fees not exceeding the amounts therein mentioned as may be directed by the Minister responsible for shipping, but a receiver shall not be entitled to any remuneration other than those payments.

(2) The receiver shall, in addition to all other rights and remedies for the recovery of those expenses or fees, have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

(3) Whenever any dispute arises as to the amount payable to any receiver in respect of expenses or fees, that dispute shall be determined by the Minister responsible for shipping, and the decision of the Minister responsible for shipping shall be final.

(4) All fees received by a receiver in respect of any services performed by him as receiver shall be carried to and form part of the Consolidated Fund.

Duties on Wreck.

Provisions as to duty on wrecked goods.

179.(1) All wreck brought to or coming into Gibraltar shall be subject to the same duties as if the same were imported, and if any question arises as to the origin of the goods they shall be deemed to be the produce of such country as the Minister responsible for finance may on investigation determine.

(2) The Minister responsible for finance shall permit all goods, wares and merchandise saved from any ship stranded or wrecked on her homeward voyage to be forwarded to the port of her original destination and all goods, wares and merchandise saved from any ship stranded or wrecked on her outward voyage to be returned to the port at which the same were shipped, but the Minister responsible for finance shall take security for the due protection of the revenue in respect of those goods.

PART VIIIA.
WRECK REMOVAL CONVENTION.

Preliminary

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Scope of Part: Wreck Removal Convention.

179A.(1) The purpose of this Part is the implementation of the Nairobi International Convention on the Removal of Wrecks, 2007.

(2) The text of the Wrecks Convention is set out in Schedule 6.

Interpretation of Part.

179B.(1) In this Part–

"accident" means a collision of ships, a stranding, another incident of navigation or another event (whether on board a ship or not) which results in material damage to a ship or its cargo or in an imminent threat of material damage to a ship or its cargo;

"affected State" means a Wrecks Convention State in whose Convention area the wreck is located, and includes Gibraltar when a wreck is located in Gibraltar's Convention area;

"Article", without more, is a reference to an Article of the Wrecks Convention;

"BGTW" means British Gibraltar Territorial Waters which is the area of sea, the sea bed and subsoil within the seaward limits of the territorial sea adjacent to Gibraltar under British sovereignty and which, in accordance with the United Nations Convention on the Law of the Sea 1982, currently extends to three nautical miles and to the median line in the Bay of Gibraltar;

"Convention area" has the meaning given in Article 1(1) of the Wrecks Convention and, in the case of Gibraltar, means BGTW;

"Captain of the Port" has the meaning given in the Port Act;

"Gibraltar ship" means a ship registered under the Gibraltar Merchant Shipping (Registration) Act, 1993;

"hazard" means any condition or threat that–

(a) poses a danger or impediment to navigation; or

(b) may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of Gibraltar, one or more Wreck Convention States or Gibraltar and one or more Wreck Convention States;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

"marine casualty" means a collision of ships , stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo;

"operator of the ship" means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended;

"related interests" means the interests of Gibraltar, or of a coastal State, when directly affected or threatened by a wreck, such as–

(a) maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;

(b) tourist attractions and other economic interests of the area concerned;

(c) the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and

(d) offshore and underwater infrastructure;

"registered owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime casualty, but in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, "registered owner" shall mean such company;

"removal" means any form of prevention, mitigation or elimination of the hazard created by a wreck and "remove", "removed" and "removing" shall be construed accordingly;

"ship" means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources;

"State of the ship's registry" means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly;

"wreck", following upon a maritime casualty, means-

(a) a sunken or stranded ship;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship;

(c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or

(d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already been taken;

"the Wrecks Convention" means the Nairobi International Convention on the Removal of Wrecks, 2007 done in Nairobi on 18 May 2007.;

"Wrecks Convention State" means a State party to the Wrecks Convention;

"wreck removal insurance" means a contract of insurance or other security satisfying the requirements of Article 12, and "insurer" means the person providing the insurance or other security;

"wreck removal notice" means a notice under section 179E;

(2) References in this Part to entering or leaving a port includes references to arriving at or leaving an offshore facility in the territorial sea of a State.

(3) References in this Part to ships registered in a State include unregistered ships entitled to fly the flag of that State.

(4) Where a duty is imposed on the Captain of the Port as the receiver of wreck under Part VIII and such duty conflicts with a similar duty imposed on the Captain of the Port under this Part, the Captain of the Port shall discharge his duty under this Part.

Report, marking and removing

Wreck reports.

179C.(1) Where an accident results in a wreck in a Convention area, the persons responsible for any Gibraltar ship involved in the accident must report the wreck without delay.

(2) If the wreck is within Gibraltar's Convention area, it must be reported to the Captain of the Port.

(3) If the wreck is in the Convention area of another State, it must be reported to the government of that State.

(4) The following are responsible for a ship–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) the master of the ship; and

(b) the operator of the ship.

(5) A report under subsection (1) shall include (so far as it is known)–

(a) the name and the principal place of business of the registered owner;

(b) all other relevant information necessary for the affected State to determine whether the wreck poses a hazard, including-

(i) the precise location of the wreck;

(ii) the type, size and construction of the wreck;

(iii) the nature of the damage to, and the condition of, the wreck;

(iv) the nature and quantity of the cargo, in particular any hazardous and noxious substances; and

(v) the amount and types of oil, including bunker oil and lubricating oil, on board.

(6) If one of the persons responsible for a ship makes a report under subsection (1), the others are no longer under a duty to make a report.

(7) Failure to comply with a reporting requirement is an offence.

(8) A person guilty of an offence under this section is liable–

(a) on summary conviction to a fine not exceeding £50,000; or

(b) on conviction on indictment, to a fine.

Locating and marking wrecks.

179D. Where the Captain of the Port receives a report under section 179C(1) or pursuant to Article 5 he must–

(a) determine, in accordance with the criteria set out in Article 6, whether the wreck poses a hazard for the purposes of section 179C(5)(b);

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) use all practical to warn mariners and the States concerned of the nature and location of the wreck, in the manner and to the extent provided for in Article 7; and

(c) where he has determined that the wreck constitutes a hazard, take all reasonable steps to mark the wreck in the manner and to the extent required under Article 8.

Removal by registered owner.

179E.(1) Where, pursuant to section 179D(a), the Captain of the Port has determined that the wreck poses a hazard he shall–

(a) inform the State of the ship's registry and the registered owner; and

(b) consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken in relation to the wreck.

(2) Notwithstanding subsection (1), the Captain of the Port must take all reasonable steps to give a notice ("a wreck removal notice") requiring the registered owner to comply with the obligations imposed on registered owners by Article 9(2) and (3) of the Wrecks Convention (removal of wrecks and production of evidence of insurance).

(3) The notice must be in writing and must–

(a) specify the deadline set under Article 9(6)(a) for the removal of the wreck; and

(b) inform the registered owner of the other matters set out in paragraph (6)(b) and (c) of that same Article.

(4) A registered owner who fails, without reasonable excuse to comply with a notice by the specified deadline commits an offence.

(5) A registered owner guilty of an offence under subsection (4) is liable–

(a) on summary conviction, to a fine not exceeding £50,000; or

(b) on conviction on indictment, to a fine.

Conditions about removal.

179F.(1) This section applies if the Captain of the Port has given a registered owner a wreck removal notice.

(2) The Captain of the Port may impose conditions as to the removal of the wreck in accordance with Article 9(4).

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(3) A condition is imposed by giving notice of it to the registered owner.

(4) A registered owner who fails, without reasonable excuse, to comply with a condition commits an offence.

(5) Subject to subsection (6), conditions under this section may only be imposed before removal commences and only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

(6) When the removal of a wreck has commenced, the Captain of the Port may only impose conditions if these are necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.

(7) A registered owner guilty of an offence under subsection (4) is liable–

(a) on summary conviction, to a fine not exceeding £50,000; or

(b) on conviction on indictment, to a fine.

Removal in default.

179G. The Captain of the Port may remove a wreck in Gibraltar's Convention area in the circumstances set out in Article 9(7) or (8).

Liability for costs.

179H.(1) This section applies where–

(a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in Gibraltar's Convention area; and

(b) costs have been incurred complying with sections 179D to 179G (locating and marking and removal of wrecks).

(2) The person who incurred the costs is entitled to recover them from the ship's registered owner unless the owner proves that an exception set out in Article 10(1) (a), (b) or (c) applies.

(3) The registered owner is not liable for costs under this section if or to the extent that liability would conflict with–

(a) a convention listed in Article 11(1), provided that the relevant convention is applicable and is in force in Gibraltar.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) an enactment implementing such a convention; or

(c) any Regulations which the Minister may make for such purposes.

(4) Where the registered owner of each of two or more ships is liable for costs under this section but the costs for which each is liable cannot be reasonably separated, the registered owners shall be jointly liable for the total costs.

(5) Gibraltar has the right to exclude the application of Article 2, paragraph 1(d) of the Convention on Limitation of Maritime Claims, 1976, as amended. Gibraltar excludes Article 2, paragraph 1(d) of the Convention on Limitation of Maritime Claims and therefore applies unlimited liability in respect of wrecks.

(6) Nothing in this section shall prejudice any right of recourse against third parties.

Limitation period.

179I. An action to recover costs under section 179H may not be brought after the end of whichever of the following ends earlier–

(a) the period of 3 years beginning with the date on which a wreck removal notice was given in respect of the wreck; and

(b) the period of 6 years beginning with the date of the accident which resulted in the wreck.

Insurance

Wreck removal insurance.

179J.(1) This section applies to ships with a gross tonnage of 300 or more.

(2) A Gibraltar ship may not enter or leave a port, including the port of Gibraltar, unless–

(a) the ship has wreck removal insurance; and

(b) the Maritime Administrator has certified that it has wreck removal insurance.

(3) A foreign ship may not enter or leave the port of Gibraltar unless–

(a) the ship has wreck removal insurance; and

(b) there is a certificate confirming that it has wreck removal insurance.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(4) For a foreign ship registered in a foreign Wrecks Convention State the certificate must be one that has been issued by or under the authority of the government of that State.

(5) For a foreign ship registered in any other State the certificate must be one that has been issued–

(a) by the Maritime Administrator; or

(b) by or under the authority of the government of a Wrecks Convention State.

(6) In this Part, and unless the Minister, by Order, provides otherwise, the gross tonnage of a ship shall be calculated in accordance with the regulations set out in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.

Failure to insure.

179K.(1) The master and operator of a ship each commit an offence if–

(a) the ship enters or leaves the port of Gibraltar in contravention of section 179J; or

(b) any person attempts to navigate the ship into or out of the port in contravention of that section.

(2) A person guilty of an offence under subsection (1) is liable–

(a) on summary conviction, to a fine not exceeding £50,000; or

(b) on conviction on indictment, to a fine.

Detention of ships.

179L. The powers of detention provided in section 208 may be exercised if anyone attempts to navigate a ship out of the port of Gibraltar in contravention of section 179J.

Production of certificates.

179M.(1) This section applies to a ship which is required to have a wreck removal insurance certificate before entering or leaving a port.

(2) The master of the ship must ensure that the certificate is carried on board.

(3) The master of the ship must, on request, produce the certificate to–

(a) an officer of the Captain of the Port; or

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) an officer of the Maritime Administrator.

(4) A person commits an offence if he fails to comply with subsection (2) or (3).

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Issue of certificates.

179N.(1) This section applies where the registered owner applies to the Maritime Administrator for a wreck removal insurance certificate in respect of–

(a) a Gibraltar ship; or

(b) a foreign ship registered in a State other than a Wrecks Convention State.

(2) In relation to a Gibraltar ship, the Maritime Administrator must issue the certificate if satisfied–

(a) that the ship has wreck removal insurance in place for the period to which the certificate will relate; and

(b) that the obligations of the person providing the wreck removal insurance will be met.

(3) In relation to a foreign ship registered in a State other than a Wrecks Convention State, the Maritime Administrator may issue the certificate if satisfied on the matters in subsection (2)(a) and (b).

(4) The Maritime Administrator must keep a copy of any certificate issued at the Gibraltar Ship Registry and send a copy of any such certificate to the Captain of the Port, upon request.

(5) The Maritime Administrator must make such certificates available for public inspection.

Cancellation of certificates.

179O. The Minister may by regulations provide for the cancellation and delivery up of wreck removal insurance certificates issued under section 179N.

(2) A person who fails to deliver up a certificate in accordance with the regulations commits an offence.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Third party rights against insurers.

179P.(1) This section applies where–

(a) a ship has been involved in an accident as a result of which it or anything from it has become a wreck in Gibraltar's Convention area;

(b) at the time of the accident the ship had wreck removal insurance; and

(c) there is a wreck removal insurance certificate in relation to the insurance.

(2) A person who is entitled to recover costs from the ship's registered owner under section 179H may recover them from the insurer.

(3) It is a defence for the insurer to prove that the accident was caused by the wilful misconduct of the ship's registered owner.

(4) The insurer may also rely on any defences available to the registered owner under Article 12(10) (including section 179I).

Electronic certificates.

179Q.(1) The Maritime Administrator shall obtain the Minister's prior approval before he gives notice under Article 12(13) (electronic insurance certificates etc).

(2) The Minister may make regulations for the purpose of implementing Article 12(13) and such regulations may make such amendments to this Part as he thinks necessary or expedient.

Government ships.

179R.(1) This Part does not apply to any warship or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service, unless that ship has been specified in a notice under Article 4(3) and this section shall apply to a ship owned or operated by Her Majesty's Government of Gibraltar on like terms.

(2) Section 179K does not apply to a ship (an "exempt ship") that is owned by a Wrecks Convention State.

(3) An exempt ship must have a certificate issued by the government of the State concerned stating–

(a) that the ship is owned by that State; and

(b) that any liability under section 179H shall be met up to the limits prescribed by Article 12 (compulsory insurance).

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(4) Section 179M (2) to (5) applies to such a certificate.

(5) Where a ship is owned by a State and operated by a company that is registered in that State as operator of the ship, references in this Part to the registered owner are references to that company.

(6) In proceedings against a Wrecks Convention State for the recovery of costs under section 179H the State shall be treated as having submitted to the jurisdiction of the court in which the proceedings are brought; but this does not authorise execution against the property of a State.

Saving.

179S. Nothing in this Part affects any claim, or the enforcement of any claim, a person incurring any liability under this Part may have against any other person in respect of that liability.

Regulations.

179T. The Minister may by Regulations amend this Part to reflect any amendment of the Wrecks Convention.

180-203 *Repealed.*

PART X.
EMPLOYMENT OF ALIENS IN BRITISH SHIPS.

Aliens as masters of British ships.

204. (1) No person other than–

(a) a British citizen;

(b) a British Dependent Territories citizen;

(c) a British Overseas citizens;

(d) a person who under the British Nationality Act 1981 is a British subject;

(e) persons who under the Hong Kong (British Nationality) Order 1986 are British Nationals (Overseas);

(f) a citizen of the Republic of Ireland;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(g) such other persons as may be specified by the Minister responsible for shipping by notice in the Gazette,

shall be employed or act as master, chief officer or chief engineer of a ship registered in Gibraltar;

Provided that the Minister responsible for shipping may exempt any person from the provisions of this subsection for such time and subject to such conditions as the Minister responsible for shipping may think fit.

(2) A person who acts as master of a ship or employs any person as master of a ship contrary to the provisions of subsection (1) is guilty of an offence and is liable on summary conviction to imprisonment for six months and to a fine of £2000 .

(3) Where the owner of any ship, or his servant, or agent, employs a master in contravention of this section, the ship in respect of which the offence is committed (if under 250 tons burden) and her equipment shall be liable to forfeiture to Her Majesty, without prejudice to any penalty which may be imposed under subsection(2).

(4) Section 76 of the Merchant Shipping Act, 1894, as amended by any subsequent enactment, shall apply to ships which have become subject to forfeiture under this Part in like manner as it applies to ships subject to forfeiture under Part I of that Act.

(5) In any proceedings under this section a certificate given by the Commissioner of Police that the person named therein is a person mentioned in paragraph (a) to (g) inclusive of subsection (1) shall be conclusive.

PART XI.
LEGAL PROCEEDINGS.

Prosecution of offences .

205. Subject to any special provisions of this Act –

(a) an act or omission which is declared by any section of this Act to be an offence but for which no penalty is therein prescribed may be tried on indictment or summarily and

(i) if tried on indictment, is punishable by imprisonment for two years or by a fine;

(ii) if tried summarily, is punishable by imprisonment for six months or by a fine of £1000;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) an offence under this Act made punishable with imprisonment for any terra not exceeding six months or by a fine not exceeding £1000, shall be prosecuted summarily.

Legal proceedings.

206. Except where other express provision is made in this Act, legal proceedings under this Act may be taken in the name of the Attorney-General, the Financial Secretary or the Captain of the Port.

General penalty.

207. An infringement of any of the provisions of this Act or any rules made thereunder which is not therein expressly declared to be an offence is an offence punishable by a fine of £400.

Enforcing detention of ship.

208. (1) Where under this Act a ship is to be or may be detained, any commissioned officer on full pay in the naval, military or air service of Her Majesty, or any officer of the Port Department or any revenue officer, may detain the ship, and if the ship after detention or after service on the master of any notice or order for detention proceeds to sea before it is released by competent authority, the master of the ship, and also the owner, and any person who sends the ship to sea, if that owner or person is party or privy to the offence, are guilty of offences and are each liable on conviction on indictment to a fine and on summary conviction to a fine of £50,000.

(2) Where a ship so proceeding to sea takes to sea when on board thereof in the execution of his duty is any officer authorized to detain the ship, or any surveyor or officer of the Port Department or any revenue officer, the owner and master of the ship–

(a) are guilty of offences and are each liable on conviction, if tried on indictment, to a fine or, if tried summarily, to a fine £ 2,000;

(b) are each liable to pay the expenses of and incidental to the officer or surveyor being so taken to sea, which expenses may be recovered in like manner as the fine.

(3) Where any provision of this Act or the Merchant Shipping Acts, provides that a ship may be detained until any document is produced to the proper officer of customs, the proper officer shall mean unless the context otherwise requires, the Captain of the Port.

Sums ordered to be paid leviable by distress on ship.

209.(1) Where any court has power to make an order directing payment to be made of any seaman's wages, fines or other sums of money, then, if the party so directed to pay the same is the master or owner of the ship, and the same is not paid at the time and in manner prescribed

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

in the order, the court may, in addition to any other powers it may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

(2) Where a warrant of distress is issued under this section for the purpose of levying any amount ordered to be paid on the conviction of the master of a ship, section 185 of the Criminal Procedure Act (which relates to the detention of the defendant pending the return to a warrant of distress), shall apply as though the distress were to be levied on the goods of the defendant.

Service of documents.

210.(1) Where for the purposes of this Act any document is to be served on any person, that document may be served –

(a) in any case by delivering a copy thereof personally to the person to be served, or by leaving the same at his last place of abode;

(b) if the document is to be served on the master of a ship, where there is one, or on a person belonging to a ship, by leaving the same for him on board that ship with the person being or appearing to be in command or charge of the ship; and

(c) if the document is to be served on the master of a ship where there is no master, and the ship is in Gibraltar, on the managing owner of the ship or, if there is no managing owner, on some agent of the owner resident in Gibraltar, or where no such agent is known or can be found, by fixing a copy thereof to the mast of the ship.

(2) A person who obstructs the service on the master of a ship of any document under the provisions of this Act relating to the detention of ships as unseaworthy is guilty of an offence and is liable on conviction to a fine of £2000.

(3) The owner or master of a ship who is party or privy to such obstruction is guilty of an offence.

PART XII.
SUPPLEMENTAL.

General Control.

Superintendence of merchant shipping by Port Department.

211. The Port Department shall be the department to undertake the general Superintendence of all matters relating to merchant shipping and seamen, and is authorized to carry into execution the provisions of this Act and of all enactments relating to merchant shipping and seamen for the time being in force, except where otherwise therein provided.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Minister responsible for shipping may prescribe forms.

212. Subject to any special provisions of this Act, the Minister responsible for shipping may have prepared and sanction forms for any licence, certificate, book, instrument or paper required under this Act other than those required under Part I of the Merchant Shipping Act, 1894, and may make such alterations in these forms as he may think fit.

Offences as to use of forms.

213. (1) A person who –

(a) forges, assists in forging, or procures to be forged, the seal or any other distinguishing mark of the Minister responsible for shipping or the Captain of the Port on any form issued under this Act; or

(b) fraudulently alters, or assists in fraudulently altering, or procures to be fraudulently altered, any such form,

is guilty of an offence.

(2) A person who, –

(a) when a form approved by the Minister responsible for shipping is, under Part I, required to be used, uses without reasonable cause a form not purporting to be a form so approved; or

(b) prints, sells or uses any document purporting to be a form approved by the Minister responsible for shipping, knowing the same not to be the form approved for the time being, or not to have been prepared or issued by the Minister responsible for shipping or the Captain of the Port,

is guilty of an offence and is liable on conviction to a fine of £100.

Surveyors of Ships.

Appointment of surveyors.

214. (1) The Minister responsible for shipping may appoint either generally or for special purposes, and on special occasion, any person he thinks fit to be a surveyor of ships for the purposes of this Act, and a person so appointed (in this Act referred to as a surveyor of ships) may be appointed either as a ship surveyor or as an engineer surveyor or as a wireless telegraphy surveyor.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) The Minister responsible for shipping may also appoint a surveyor-general of ships for Gibraltar and such other officers in connection with the survey of ships and matters incidental thereto as the Minister responsible for shipping thinks fit, and a person may be appointed as any one or more of the classes of surveyors mentioned in subsection (1).

(3) The Minister responsible for shipping may remove any surveyors of ships and fix and alter their remuneration, and may issue instructions as to the performance of their duties, and in particular as to the manner in which surveys of passenger steamers are to be made, as to the notice to be given by the Captain of the Port when surveys are required, and as to the payment of any expenses incurred by surveyors in the execution of their duties, and may by such instructions determine the persons by whom and the conditions under which the payment of those expenses is to be made.

(4) A surveyor of ships who demands or receives directly or indirectly any fee, remuneration or gratuity whatever in respect of any duties performed by him under this Act otherwise than by the direction of the Governor, is guilty of an offence and is liable on conviction to a fine of £1000.

(5) The duties of a surveyor of ships shall be performed under the superintendence of the Captain of the Port, and in accordance with the instructions issued by the Minister responsible for shipping,

Power of surveyor for purpose of survey of ships.

215.(1) A surveyor of ships in the execution of his duties may go on board any steamship at all reasonable times, and inspect the same or any part thereof, or any of the machinery, boats, equipments or articles on board thereof, or any certificates of the master, mate or engineer to which the provisions of this Act or the Merchant Shipping Acts or any of the regulations made thereunder apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to the ship or for any other reason he considers it necessary so to do, may require the ship to be taken into dock for the purpose of surveying the hull thereof.

(2) A person who hinders any surveyor of ships from going on board any steamship or otherwise impedes him in the execution of his duties under this Act or the Merchant Shipping Acts, is guilty of an offence and is liable on conviction to a fine of £400.

Returns by surveyors to the Minister responsible for shipping.

216.(1) Surveyors of ships shall make such returns to the Minister responsible for shipping as the Minister responsible for shipping may require with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments of ships surveyed by them.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(2) The owner, master or engineer of any ship so surveyed shall, on demand, give to the surveyors all such information and assistance within his power as they require for the purpose of those returns.

(3) An owner, master or engineer who, on being applied to for that purpose, fails without reasonable cause to give any such information or assistance, is guilty of an offence and is liable on conviction to a fine of £200.

Obstruction of Inspectors.

Penalty for obstructing inspectors in the execution of their duty.

217. A person who wilfully impedes any person having the powers of a Board of Trade inspector under the Merchant Shipping Acts, in the execution of his duty, whether on board a ship or elsewhere, is guilty of an offence and is liable on conviction to a fine of £10, and may be seized and detained by the person having the powers of an inspector, or by any person or persons whom that person may call to his assistance, until he can be conveniently taken before the magistrates' court.

General.

Application of Act to ships propelled by electricity.

218. Any provisions of this Act applying to steamers or steamships shall apply to ships propelled by electricity or other mechanical power with such modifications (if any) as the Minister responsible for shipping may prescribe for the purpose of adaptation.

Exemption of H.M.'s ships, etc.

219. This Act shall not, except where specially provided, apply to ships belonging to Her Majesty or the Government.

Dispensing powers of the Minister responsible for shipping.

220. The Minister responsible for shipping may, if he thinks fit, and upon such conditions (if any) as he thinks fit to impose, exempt any ship from any specified requirement contained in, or prescribed in pursuance of, this Act, or dispense with observance of any such requirement in the case of any ship, if he is satisfied that that requirement has been substantially complied with in the case of that ship, or that compliance with the requirement is unnecessary in the circumstances of the case, and that the action taken or provision made as respects the subject–matter of the requirement in the case of the ship is as effective as or more effective than, actual compliance with the requirement.

Application of the Merchant Shipping Acts.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

221.(1) It is hereby declared that in addition to the provisions of the Merchant Shipping Acts which expressly or by necessary implication apply to Gibraltar, all the provisions of the said Acts, in so far as the same may be applicable, shall apply to Gibraltar, mutatis mutandis, in all matters relating to shipping and seamen not expressly provided for by this Act:

Provided that the provisions of subsections (2), (5), (6) and (7) of section 2 of the Merchant Shipping (Liability of Shipowners and Others) Act, 1958, shall not apply to Gibraltar and nothing contained in section 503 of the Merchant Shipping Act, 1894, as amended by section 2 of the aforesaid Act shall be construed to limit the liability of the owner or agent of any vessel under the provisions of section 165 of this Act or in respect of any damage (however caused) to harbour works or harbour basins.

(2) It is hereby declared that the provisions of the Shipowners' Negligence (Remedies) Act, 1905, shall apply to Gibraltar, mutatis mutandis.

Disposal of fees, etc.

222. (1) The fees specified in Schedule I are hereby declared to be payable in Gibraltar to and for the use of Her Majesty in respect of any of the matters to which this Act or the Merchant Shipping Acts relate, and in the absence of any other express provision all such fees shall be paid in the first instance to the Captain of the Port who shall pay the same into the Consolidated Fund.

(2) The Minister responsible for shipping may from time to time by notice in the Gazette add to, vary or revoke any of the fees specified in Schedule 1.

Rule-making Powers.

223. In addition to the powers hereinbefore given in that behalf, the Minister responsible for shipping may make rules for the better and more effective carrying out the provisions of this Act and may impose for the breach thereof penalties of a fine of £2,000 and imprisonment for six months.

Regulations.

223A. (1) The Minister may make Regulations for all or any of the following purposes–

(a) prescribing the fees payable in respect of an inspection which results in the detention of a ship in accordance with any Regulations made under the Act;

(b) giving effect in Gibraltar to the law of the European Community or to any provision of a relevant International Agreement or Convention ratified by the United Kingdom and the application of which has been extended to Gibraltar, relating to any of the matters contained in or dealt with under this Act and this power shall

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

include the power to provide for the provision to come into force although the law, Agreement or Convention, as the case may be, has not yet come into force;

(c) concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ships safety, pollution, prevention and shipboard living and working conditions (port State control);

(d) providing for a regime of regulation, supervision, offences and sanctions in relation to the carrying out of bunkering operations, or the causing of pollution of the seas, in Gibraltar;

(e) prescribing anything which under the Act may be prescribed;

(f) providing for such other matters as are reasonably necessary for or incidental to the due administration of this Act.

(2) Regulations made under this section, or any other section of this Act providing a similar power, may–

(a) make different provisions for different classes of ship, for the same class of ship in different circumstances and for different circumstances;

(b) make exceptions to any matter prescribed in such regulations;

(c) provide for the delegation of functions, either generally or specifically, exercisable by virtue of the regulation making power in this Act or by virtue of the regulations;

(d) make provisions relating to the standard of approval or application for the purpose of giving effect to the provisions of any relevant International Convention or Agreement;

(e) make provision for the determination and implementation of penalties for a failure to comply with instructions made by the Maritime Administrator whether such instructions are made by virtue of a power contained in this Act or in regulations made under this or any other section.

Power of Minister responsible for shipping to make rules, etc.

224.(1) The power conferred on the Minister responsible for shipping by this Act to make rules, to fix fees and to approve forms shall include a power to declare that any rules or regulations made, fees fixed or forms approved under the Merchant Shipping Acts shall be deemed to be rules made, fees fixed or forms approved under this Act and thereupon such rules, regulations, fees or forms shall apply to Gibraltar mutatis mutandis or subject to such modifications or amendments as the Minister responsible for shipping may specify, and it shall

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

be lawful for any court to construe any such rules, regulations, fees or forms with such verbal alterations not affecting the substance as may be deemed expedient to render the same applicable to local circumstances and to any matters before the court:

Provided always that such construction shall not be inconsistent with the provisions of this Act.

(2) Unless and until the Minister responsible for shipping shall make other rules under this Act, it is hereby declared that the rules hereinafter mentioned including amendments as made from time to time and, in the event of any such rules being revoked, such successor rules as may be made by the Minister of Transport in the United Kingdom under the powers conferred by the Merchant Shipping Acts shall apply to Gibraltar, mutatis mutandis, and subject to the modifications hereinafter specified that is to say:–

(a) *Revoked.*

(d) the Shipping Casualties and Appeals and Re–hearings Rules, 1923.

(3) Unless and until the Minister responsible for shipping shall issue other instructions under section 214 of this Act the instructions issued from time to time by the Minister of Transport under section 724 of the Merchant Shipping Act, 1894, shall, subject to the provisions of Schedule 2 and to such other variations as are necessary in consequence of the application to Gibraltar of any rules and regulations of the Minister of Transport in modified or amended form in pursuance of this Act, be deemed to be instructions issued by the Minister responsible for shipping under section 214.

PART XIII.
MARPOL CONVENTION

Implementation of The Merchant Shipping (Prevention of Oil Pollution) Regulations 1983.

225.(1) The provisions of the Merchant Shipping (Prevention of Oil Pollution) Regulations, 1983 (S.I. 1983 No. 1398) of the United Kingdom and any regulations amending or replacing the same shall mutatis mutandis apply to all ships to which this section applies and to the owners and master of such ships, as they apply to United Kingdom ships, and to the onwers and master of such ships.

(2) This section applies to–

(a) all ships registered in Gibraltar;

(b) other ships while they are in Gibraltar.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(3) For the purposes of this section all powers vested by any provision of the Regulations mentioned in subsection (1) shall be exercisable by the Minister responsible for shipping.

(4) Without derogation from the generality of subsection (3), the Minister responsible for shipping may grant exemptions from all or any of the provisions of the regulations mentioned in subsection (1) for classes of cases or individual cases on such terms as he may specifiy and may, subject to giving reasonable notice, alter or cancel any such exemption.

(5) The Minister responsible for shipping may after consultation with the Secretary of State by regulations make provision for any such matter as shall appear to him to be necessary or expedient for the purpose of implementing in Gibraltar the provisions of the International Convention for the Prevention of Pollution from Ships 1973, including its protocols, Annex I (but no other Annex) and appendices thereto, as amended by the Protocol of 1978 to that Convention or any amendment thereto.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

SCHEDULE 1

TABLE A.

(1). *Revoked.*

(2) CREW ACCOMMODATION - MERCHANT SHIPS

In this part of Table A–

"The Regulations" means the Merchant Shipping (Crew Accommodation) Regulations 1978.

Service	£
Fees for the inspection of crew accommodation on registry or re-registry in a ship:	
where the ship:	
does not exceed 2,000 tons	£66.50 plus an additional £111.00 for each 50 tons or part there-of by which the ship exceeds 50 tons.
is 2,000 tons or over but does not exceed 30,000 tons	£4,995 plus an additional £310 for each 1,000 tons or part thereof by which the ship exceeds 2,000 tons.
is 30,000 tons or over	£13,850.00
Other fees for the inspection of crew accommodation in Merchant Ships:	
For the inspection of crew accommodation in consequence of alterations or repairs other than an inspection described below:–	no maximum
For the inspection of crew accommodation combined with a measurement of tonnage carried out consequent upon alterations or repairs	no maximum
For the inspection of crew accommodation in consequence of an increase in the number of persons accommodated in any sleeping room	the appropriate maximum fee specified in the preceding tabular scales of fees.
For the inspection of crew accommodation:	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

whenever there is reason to believe that any provision of the regulations has been contravened or that any of the conditions on which a ship has been exempted has not been satisfied; or at the request of any person or persons who are properly representative of the owners of the ship or of the seamen concerned	the appropriate maximum fee specified in the preceding tabular scales of fees.
Fees chargeable by the Port Department for any of the services specified to be carried out at a port outside Gibraltar by a ship surveyor not employed by the Department but specially appointed for the purpose under the Merchant shipping Act: for arranging the appointment	$66^2/_3$ of the appropriate maximum fee specified in the preceding tabular scales of fees. (The fee in each case is in addition to the fee payable for the service to the specially appointed surveyor or his employer).
Fees for acceptance of materials and fittings for crew accommodation in respect of: fresh water generators sewage disposal units automatic chlorination units (sterilisers) units to increase pH value of water galley ovens shower mixing valves corrosion inhibitors	no maximum
Fees for acceptance of deck sheathings	
For the inspection of a deck sheathing and consideration of the report of tests carried out by an independent authority	a fixed fee of £294.00. (This fee is in addition to the fee charged by the testing authority.)

TABLE B

Registration and Miscellaneous services.

The fees in this Table are fixed fees and are payable to the Gibraltar Government Account.

Service	Fee

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Fees for registration, transfer and mortgage of ships and inspection of register book (1) the first registry, or registry anew or re-registry of a ship or the transfer of registry of a ship from one port to another:	
Where the ship:	
does not exceed 1,500 tons	145.00
exceeds 1,500 tons	210.00
(2) The registry of the transfer of ownership of a ship by bill of sale or by transmission or of the mortgage of a ship or the transfer or the discharge of such a mortgage:	
Where the ship:	
does not exceed 1,500 tons	45.00
exceeds 1,500 tons	80.00
(3) For each inspection of the register book	5.00

TABLE G

Fees for deck manning and for survey of ships alleged to be unseaworthy	
(Sections 459, 462 and 463 of the Merchant Shipping Act 1894).	
For inspection on the application of the owner of a Gibraltar registered ship and for the issue of a Safe Deck Manning Certificate in connection with Merchant Shipping Notice No. M. 1041.	
Conversion of existing Safe Deck Manning Certificate to Safe Manning Certificate for ships of 350KW or over	a fixed fee of £60.
Conversion of existing Safe Deck Manning Certificate to Safe Manning Certificate for ships under 350KW	a fixed fee of £10.00
New application for a Safe Manning Certificate for ships of 350KW or over	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

	a fixed fee of £135.00
New application for a Safe Manning Certificate for ships under 350KW	a fixed fee of £75.00
For the issue of exemptions from deck and engineer officer certification requirements	a fixed fee of £63.00
For the survey of a ship which is detained (other than upon complaint of the crew) on account of overloading, improper loading, insufficient ventilation of coal cargoes, undermanning or defective equipment (such as chronometers or charts):	
(a) upon final detention, or	
(b) when it appears that a ship provisionally detained was, at the time of detention, unsafe	no maximum
For the survey of a ship upon the complaint of the crew:	
(a) if the survey is carried out by a Port Department surveyor, or	
(b) if the survey is carried out by a person appointed for that purpose either by the Port Department or the Court	no maximum
Fees for survey of ships detained under section 3, 4, 5 or 14 of the Merchant Shipping (Load Lines) Act 1967	
For the survey of a ship because the appropriate load line is submerged	no maximum
For the survey of a ship for being unmarked or improperly marked with load lines	no maximum
Fees for the inspection of magazines and other spaces for the stowage of goods of Class I	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

For the inspection of a vessel, her compartments and magazines for the purpose of seeing that they comply with the recommendations of the Standing Advisory Committee on the Carriage of Dangerous Goods in Ships including the issue of certificates stating that:	
(a) Compartments are suitable and (b) Magazines are properly constructed	no maximum
For the presence of a surveyor at a pre-stowage conference on the stowing of explosives	no maximum
For a certified copy of each certificate	a fixed fee of £18.75.
Fees for the inspection of the stowage of goods of Class I	
For the inspection of the stowage of explosives and the issue of a certificate stating the stowage is in accordance with the recommendations of the Standing Advisory Committee on the Carriage of Dangerous Goods in Ships	no maximum
For a certified copy of the certificate	a fixed fee of £18.75
Fees for examination and survey of a bulk chemical tanker under the IMCO Code for the Construction and Equipment of ships carrying Dangerous Chemicals in Bulk	
Note: (a) The fees include the issue of a Certificate of Fitness in appropriate cases.	
(b) A "new" or "existing" ship in this service is as defined in paragraph 1.7 of the Code:	
For the initial examination and survey of a "new" ship; or an "existing" ship in respect of the requirements of paragraph 1.7.3(a), (b), (c) and (d) of the Code:	
"New" ship (including 10 chemicals):	
not exceeding 10,000 tons	£11,246.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

exceeding 10,000 tons	£13,019.00
For each chemical in excess of 10 chemicals	no maximum
"Existing" ship (including 10 chemicals):	
not exceeding 10,000 tons	£5,429.00
exceeding 10,000 tons	£6,371.00
For each chemical in excess of 10 chemicals	no maximum
For the survey of a ship in respect of the requirements of paragraph 1.6.1 of the Code regarding safety equipment provisions	£1,250.00
For the examination and survey of a ship for the renewal of the certificate	50% of the appropriate maximum fee.
For each additional chemical not included on a previous certificate	no maximum
Fees for examination and survey of bulk gas carriers under the IMCO Codes for the Construction and Equipment of ships carrying Liquified Gases in Bulk and for Existing ships carrying Liquified Gases in Bulk	
Note:	
(a) The fees include the issue of a Certificate of Fitness in appropriate cases.	
(b) When application for survey is made the appropriate accumulative fee will be charged if no fee has previously been paid	
New Ship Code.	
For the initial examination and survey of a ship as defined in paragraph 1.2.2 or 1.2.3 of the Code in respect of paragraph 1.6.1(a) of the Code:	
not exceeding 5,000 tons	9,141.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

exceeding 5,000 tons but not exceeding 25,000 tons	18,282.00
exceeding 25,000 tons	27,423.00
For the examination and survey of a ship for the renewal of the certificate in accordance with paragraph 1.6.1(b) of the Code	50% of the appropriate maximum fee.
For the survey of a ship in respect of the requirements of paragraph 1.6.1(c) of the Code	1,250.00
Existing ship code	
For examination and survey of a ship in respect of the requirements of paragraph 1.6.1 (b) of the Code operative after 1 October 1982 where the requirements prior to that date have previously been completed.	
not exceeding 5,000 tons	1,385.00
exceeding 5,000 tons but not exceeding 25,000 tons	2,770.00
exceeding 25,000 tons	4,155.00
For examination and survey of a ship in respect of the full requirements of the Code as specified in paragraph 1.6.1(a) and (b) of the Code	
not exceeding 5,000 tons	8,255.00
exceeding 5,000 tons but not exceeding 25,000 tons	16,509.00
exceeding 25,000 tons	24,764.00
For the periodical examination and survey of a ship for the renewal of the certificate in accordance with paragraph 1.6.1 (c) of the Code	50% of the appropriate maximum fee.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

For the survey of a ship in respect of the requirements of paragraph 1.6.1(d) of the Code	1,250.00
Either Code	
For each additional products not included on a previous certificate.	no maximum
Fees for examining grain loading information	
For the purpose of this section a "sister ship" will be regarded as a ship in which the capacities of the cargo spaces, their associated structure and any grain fittings provide identical stowages of those of another ship. For the examination of grain loading information in respect of:	
IMCO Equivalent Regulations:	
Single Deck Ships:	
Not more than 100 metres in length	1,607.00
Over 100 metres in length	2,382.00
Multi-decked ships	
Not more than 100 metres in length	2,383.00
Over 100 metres in length	3,213.00
A ship using saucer stowages only in lieu of feeders	626.00
A sister ship having arrangements identical with any of the items above	415.00
For examining and certifying a copy of the grain loading information subsequent to the original examination	no maximum
For an alteration of addition to the grain loading information	no maximum
For an inspection on a ship of any alteration in the arrangements for fittings for the carriage of grain cargoes necessitating an alteration in the grain loading information	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

	no maximum
For examination of grain loading information for a Home Trade and/or Middle Trade ship for the purpose of a letter of approval: the initial application for a letter	427.00
a subsequent application for a letter, where any alteration is made to the grain loading information	no maximum
a subsequent application for a letter where no alteration is made to the grain loading information	a fixed fee of £77.50
Fees for approving coal cargo surface ventilation timber deck cargo securing arrangements and designs of fittings:	no maximum

TABLE H

PART I

Passenger Ships

Fees for passenger certificate and safety certificates

Note:

(a) Where a safety certificate is referred to, this includes a qualified safety certificate together with a corresponding exemption certificate.

(b) Except where otherwise stated the fees cover all necessary visits which the surveyor has to make in order to complete the survey. The fees for the survey for the issue of a passenger certificate, safety certificate or passenger certificate combined with a safety certificate cover the survey of the hull, boilers and propelling machinery (including tests of the materials), and the inspection of the equipment of the ship including the lights and sound signals.

(c) The Fees are exclusive of any fee which may be payable for the survey of a radio installation under Table J.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(d) The fee for the Survey for the issue of a Passenger Certificate combined with a Safety Certificate covers, in whole or in part, the fee for the survey or inspection of a ship for load line if the two operations are carried out concurrently (see Part III of Table H). A separate fee, is, however, payable for the inspection of the crew accommodation and the measurement for tonnage (see Table A).

(e) Where reference is made to the 'overall length' of a ship this shall be taken as the distance between the foreside of the foremost fixed permanent structure and the afterside of the aftermost fixed permanent structure.

2. Fee
Service £

For the survey of a ship for the issue of a passenger certificate, safety certificate or passenger certificate combined with a safety certificate, not being a ship of Class I, II or IIA;

Table of maximum fees

Gross tonnage of ship where the ship:		**Service**	**Initial Survey**	**Service**	**Renewal Survey**
Exceeds tons	Does not exceed tons				
	25 tons or, if unregistered, 15 metres (49.2 feet) in overall length		£2,382		
	50				£280
25	50 tons or, if unregistered, 15 metres (49.2 feet) in overall length		£5,983		
50	100				
100	200		£11,634		
100	30,000				£500 plus an additional £221.60 for each 500 tons or part thereof by which the ship exceeds 100 tons
200	10,000		£11,634 plus an		

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

			additional £1,662 for each 100 tons or part thereof by which the ship exceeds 200 tons		
10,000			No maximum		
30,000					£13,800 plus an additional £130 for each 1,000 or part thereof by which the ship exceeds 30,000 tons

Service	Maximum Fee
	£
For the issue or renewal of certificates for Classes I,II and IIA carrying not more than 36 passengers:	
For the initial survey of a ship of Class I, II or IIA carrying not more than 36 passengers for the issue of a certificate specified in the above Table of maximum fees.	60% of the appropriate maximum fee in the above Table.
For the survey of a ship of Class I, II or IIA carrying not more than 36 passengers for the renewal of a certificate specified in the above Table of maximum fees.	80% of the appropriate maximum fee in the above Table.
For the survey of a ship for the issue of a passenger certificate, safety certificate or a passenger certificate combined with a safety certificate being in each case a certificate granted exceptionally to cover a period not more than 3 months beyond the expiration date of an existing certificate.	25% of appropriate maximum fee in the above Table.
For the issue of a passenger certificate, a safety certificate or a passenger certificate combined with a safety certificate, including a survey where necessary, in each case being a certificate issued in substitution for an existing certificate of the same kind for any of the following:	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Changing the plying limits, giving additional plying limits, decreasing the number of passengers the ship may carry increasing the number of passengers the ship may carry, any other change (not being a change in owner-ship or a change of the ship's name)	£163.00 per item
For the survey for a passenger certificate issued in respect of a passenger ship not registered in Gibraltar stating only the number of passenger the ship may carry: for the first 200, or fraction of 200, passengers for every additional 200, or fraction of 200, passengers For an additional copy of a certificate	£382.00 £294.00 a fixed fee of £18.75
For a form SUR 209, modifying a passenger and safety certificate for a particular voyage for the issue of a certificate where a visit is not involved	no maximum a fixed fee of £53.50
For Ships' Certificates of Survey (including the surveys required); For a certificate that a ship complies with the standards necessary for the issue of a passenger certificate or passenger and safety certificate, except for certain items not surveyed	no maximum

TABLE H

PART II

CARGO SHIPS Service	Maximum Fee £
Standard fees for cargo ship safety construction certificates and surveys:	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

The survey of a ship for the issue of initial Cargo Ship Safety Construction Certificate where the ship:	
is 500 tons or over but does not exceed 600 tons	7,202.00
exceeds 600 tons but does not exceed 30,000 tons	7,202 plus an additional £1,994.40 for each 500 tons or part thereof by which the ship exceeds 600 tons.
exceeds 30,000 tons	124,875 plus an additional £1,785 for each 1,000 tons or part thereof by which the ship exceeds 30,000 tons.
The survey of a ship for the renewal of Cargo Ship Safety Construction Certificate, where the ship:	
is 500 tons or over but does not exceed 1,000 tons	1,440.00
exceeds 1,000 tons but does not exceed 30,000 tons	1,440 plus an additional £122 for each 500 tons or part thereof by which the ship exceeds 1,000 tons.
exceeds 30,000 tons	£8,516 plus an additional £111 for each 1,000 tons or part thereof by which the ship exceeds 30,000 tons.
The intermediate survey of a ship during the period of validity of Cargo Ship Safety Construction Certificate, where the ship:	
is 500 tons or over but does not exceed 1,000 tons	£388.00
exceeds 30,000 tons	£2,316 plus an additional £27.70 for each 1,000 tons or part thereof by which the ship exceeds 30,000 tons.
The annual survey of a ship during the period of validity of Cargo Ship Safety Construction Certificate where the ship:	
is 500 tons or over but does not exceed 1,000 tons	£240.
exceeds 1,000 tons but does not exceed 30,000 tons	£240 plus an additional £27.70 for each 500 tons or part thereof by which the ship exceeds 1,000 tons.
exceeds 30,000 tons	£1,847 plus an additional £27.70 for each 1,000 tons or part thereof

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

	by which the ship exceeds 30,000 tons.
Other fees for cargo ship safety construction certificates and surveys.	
For the survey for the issue or renewal of a cargo ship safety construction certificate or for the intermediate survey when carried out by a certifying authority other than the Port Department at the same time as a survey for classification purposes	a fixed fee of £166.
For the partial declaration of survey of a cargo ship (SUR IE)	no maximum.
For the survey for the issue to a ship of a cargo ship safety construction certificate to remain in force for a period not exceeding three months, where the ship is one in respect of which there is or has been in force within the period of twelve months preceding the survey, a passenger certificate, or a passenger certificate combined with a safety certificate:	
for the survey carried out before or within one month after the expiry of the certificate	a fixed fee of £355
for the survey carried out more than one month but within twelve months after the expiry of the certificate	a fixed fee of £710
For the survey of a ship to which the Merchant Shipping (Cargo Ship Construction and Survey) (Tankers and Comination Carriers) Rules 1975 or the Merchant Shipping (Cargo Ship Construction and Survey) Regulations 1980 apply, carried out by a Port Department surveyor, before a survey for the issue or renewal of a cargo ship safety construction certificate or an intermediate survey.	no maximum
For the survey of a ship for compliance with IMCO Resolution A327 (IX) (Recommendation concerning fire safety requirements for cargo ships)	no maximum
Where repairs have been made to a cargo ship which require a special survey to be carried out by a Port Department surveyor.	no maximum

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

TABLE H

PART III

Load Line and Seaworthiness
Note:

(a) In this part "the Act" means the Merchant Shipping (Load Lines) Act 1967; "the Rules" means the Merchant Shipping (Load Line) Rules 1968 as amended.

(b) In this part "periodical survey" means a survey of a ship in respect of which there is in force at the time of the survey, or was in force immediately before that time, a load line certificate issued by or on behalf of the Port Department under the Act or a load line exemption certificate issued by the Department.

(c) In this part a "sister ship" means a ship:

(1) which corresponds in the following respects with a ship which has already been surveyed or which will have been surveyed, prior to the survey of the sister ship:

(a) the hydrostatic particulars and cross curves of stability are identical to those of the principal ship;

(b) the amounts and dispositions of the items included in the lightweight of the ship are substantially the same as those of the principal ship;

(2) as to which, prior to the commencement of the survey, application is made in writing by or on behalf of the owner for the ship to be treated as a sister ship, accompanied by a declaration that it complies with the foregoing requirements.

(d) In this part "extended international voyage" means an outward voyage from a port or place in Gibraltar to a port or place outside Gibraltar in accordance with Section 2(1) of the Merchant Shipping Act.

(e) The standard fee prescribed in Section A shall be adjusted in accordance with the provisions of Section B and for special cases in accordance with Section C.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(f) References in Section B or Section C to a standard fee are references to the standard fee appropriate to the tonnage of the ship in accordance with the table of standard fees in Section A.

Section A

Standard fees for surveys and inspections for load line certificates and load line exemption certificates

Fees for the initial survey of a ship for a load line certificate or a load line exemption certificate:

in the case of a ship:

not exceeding 50 tons	526.00
exceeding 50 tons but not exceeding 100 tons	942.00
exceeding 100 tons but not exceeding 8,000 tons	8,864.00
exceeding 8,000 tons	9,141.00

Fees for the periodical survey of a ship for a load line certificate or a load line exemption certificate:

in the case of a ship:

not exceeding 50 tons	500.00
exceeding 50 tons but not exceeding 100 tons	886.00
exceeding 100 tons but not exceeding 500 tons	1,995.00
exceeding 500 tons	3,324.00

Fees for the periodical inspection of a ship for a load line certificate or a load line exemption certificate:

in the case of a ship:

not exceeding 50 tons	277.00
exceeding 50 tons but not exceeding 100 tons	554.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

exceeding 100 tons but not exceeding 3,000 tons	554.00 plus an additional 27.70 for each 100 tons or part thereof by which the ship exceeds 100 tons.
exceeding 3,000	1,385.00

SECTION B

Adjustments of standard fees

Where the survey or inspection of a classed ship carried out by a surveyor on behalf of an Assigning Authority other than the Port Department a the same time as a classification survey for which a fee is charged by that Authority:

an initial survey	25% of the maximum standard initial survey fee.
a periodical survey	the standard periodical inspection fee.
a periodical inspection	50% of the maximum standard periodical inspection fee.

Where the survey of a classed ship carried out by a surveyor appointed by the Port Department:

an initial survey	30% of the maximum standard initial survey fee.
a periodical survey	125% of the maximum standard periodical inspection fee.

Where the survey or inspection of a ship carried out concurrently with a survey for a passenger certificate, a safety certificate, a passenger certificate combined with a safety certificate, or a United Kingdom fishing vessel certificate by a surveyor appointed by the Department of Transport:

an initial survey	$12^1/_2$% of the maximum initial survey fee.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

an periodical survey	50% of the maximum periodical inspection fee.
a periodical inspection	no fee
For the survey of a ship in respect of which a load line certificate or load line exemption certificate is in force, where alternations have been made to the ship which involve the assignment of new free boards but are not such as to necessitate a complete survey of the ship for that purpose.	the standard periodical inspection fee.
For the survey of a ship where the survey involves the attendance of a surveyor appointed by the Port Department at the Lading trail of the ship in respect of which the owner apply for exemption from the necessity to fit hatch covers	the standard maximum fee appropriate to the survey plus an additional fixed fee of £715.00 for the surveyor's attendance at the first loading trial and of £344.00 for his attendance of any subsequent loading trial.
For the survey or inspection of a ship not exceeding 25 tons or, if unregistered, not exceeding 15 metres (49.2 feed) in overall length, which on voyages to sea carries neither cargo nor more than 12 passengers.	50% of the maximum appropriate standard fee for surveyor inspection as the case may be.
Stability requirements For the survey of a ship where it is necessary to determine compliance in respect of the ship with the stability requirements in Schedules 4 and 7 of the Rules	the standard fee appropriate to the survey plus an additional maximum fee of–
Where the ship: does not exceed 2,000 tons	665.00
exceeds 2,000 tons	6655.00 plus an additional £277.00 for each 1,000 tons or part thereof by which the

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

	ship exceeds 2,000 tons.
For the survey as described above in the case of a sister ship in respect of which an inclining test has been dispensed with	the standard fee appropriate to the survey plus an additional fee of 50% of the appropriate maximum fee.
(a)For the survey of a ship (other than a ship to which (b) applies) where the survey involves calculations in accordance with the Rules as to the ability of the ship to withstand the flooding of compartments	the standard fee appropriate to the survey plus an additional fixed fee* of £1,091.00.
(b) For the survey as described in (a) in the case of the sister ship	the standard fee appropriate to the survey plus an additional fixed fee* of £543.00.

*Where an Assigning Authority (other than the Port Department) has carried out the load line survey and charged the appropriate standard fee, only the additional fee is payable to the Department for determining compliance with the stability requirements.

SECTION C

Fees for survey and inspection: special cases

Exemptions for deeper loading

Where a survey or inspection is carried out on a ship in respect of which a load line certificate is in force, for the purpose of an exemption for deeper loading:

a first survey for the exemption	25% of the maximum standard initial survey fee plus 50% of the maximum standard periodical inspection fee.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

a subsequent survey or inspection for the continuing of the exemption in force:	
made concurrently with a periodical inspection respectively carried out by the department	no fee.
not so made	the standard periodical inspection fee.
For a survey or inspection as described above where the ship is a classed ship and the load line Assigning Authority certify in writing that the scantlings of the ship are sufficient for the deeper loading:	
a first survey for the exemption	25% of the maximum standard initial survey fee plus the standard periodical inspection fee.
a subsequent survey or inspection for the continuing of the exemption in force:	
made concurrently with a periodical survey or a periodical inspection respectively carried out by the Department	no fee
not so made	the standard periodical inspection fee.
Exemptions for single voyages	
Where a survey carried out on a ship in respect of which a load line certificate or load line exemption certificate is in force and the owners of which require it to make a single voyage outside the limits specified in that certificate not being an extended international voyage.	the standard periodical inspection fee.
Where a survey carried out on a ship in respect of which a load line certificate or load line exemption certificate is not in force and the owners of which require it to make either a single short international voyage or a single coastal voyage	25% of the maximum standard initial survey fee.
Where a survey carried out on a ship in respect of which a load line certificate or load line exemption certificate is in force for	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

prescribed coastal limits and the owners of which require it to make a single extended international voyage	25% of the maximum standard initial survey fee.
Where a survey carried out on a ship in respect of which a load line certificate or load line exemption certificate is not in force and the owners of which require it to make a single extended international voyage	50% of the maximum standard initial survey fee.
Where a survey carried out on a ship the owners of which require it to make a single voyage under tow	no maximum
Stability requirements	
For the survey of a ship to determine compliance in respect of the ship with the stability information requirements in Schedule 7 of the Rules in the case of a ship which was an existing ship on 21st July 1968:	
on which stability information was carried for the guidance of the master pursuant to the Merchant Shipping (Safety Convention) Act 1949:	
Where the ship:	
does not exceed 2,000 tons	333.00
is 2,000 tons or over	£333 plus an additional £55.40 for each 400 tons or part thereof by which the ship exceeds 2,000 tons.
on which stability information was not carried for the guidance of the master pursuant to the Merchant Shipping (Safety Convention) Act 1949	the appropriate fee. Under section B.
For a survey as described above in the case of a sister ship	50% of the maximum fees appropriate.

SECTION D
General

For the issue, in substitution for an existing load line certificate, or load line exemption certificate, of a corresponding certificate	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

showing amended or extended plying limits (including such survey or inspection as may be necessary)	a fixed fee of £104.00
For the endorsement of a load line exemption certificate	a fixed fee of £52.00
For a copy of a load line certificate or a load line exemption certificate	a fixed fee of £18.75

TABLE I

Fees for survey of ships in dry dock	
For the Survey of the hull in dry dock and for the issue of a dry docking certificate	no maximum
Fees for examination of plans and arrangements	
For the examination of preliminary plans for hulls of proposed ships:	
for the examination of the structural drawings and scantlings or	
for the consideration of the watertight subdivision arrangements or	
for consideration of designs of boilers, shafting or other machinery parts	no maximum
For consideration of the arrangements of fire appliances, life saving appliances, navigation equipment etc.	no maximum
For the examination of plans for foreign ships building outside Gibraltar	
The department will, in special cases, undertake the examination of plans of hulls, machinery life-saving appliances, fire appliances, equipment etc. of ships under construction abroad, to see whether the design and particulars conform to Solas requirements	no maximum against a deposit of 25% of the appropriate maximum fee in Table H Part I.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Fees for testing, inspecting and examining plans of sidescuttles, fire resisting doors and materials ships side and other full fittings	
For the examination of designs of fittings intended for use in connection with the subdivision or structure of a ship:	
For the examination of design of sidescuttles conforming to British Standards Specification	no fee.
For the examination of the design of sidescuttles not conforming to British Standards Specification	no maximum
For the examination of the methods of fitting materials used in the construction of 'A' Class fire resisting divisions	no maximum
For the examination of the methods of fitting materials used in the construction of "B" Class fire retarding divisions:	
per drawing	no maximum
For the examination of the design of items not include above	no maximum
For the inspection and testing at the maker's works of prototype fittings, and production fitting intended for foreign ships	no maximum
For Witnessing Fire Tests	no maximum
For the issue of a certificate of inspection and test in respect of any material of fitting referred to in this section	no maximum
For an additional certificate	a fixed fee of £18.75

TABLE J
PART I

Fees for survey of ships' boilers	
For the inspection of drawings and survey and hydraulic testing of single-ended cylindrical boilers or water tube boilers intended for use on board ship	no maximum

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Fees for surveys and tests of boiler parts, machinery, materials and testing machines

Note:

(a) If parts of boilers and machinery etc. are eventually installed in a ship under survey for certification as a passenger ship the fee is regarded as part of the fee specified in Table H

(b) Except where otherwise shown, these fees will be additional to those specified in Table I

For the survey of boiler parts, machinery etc:

Air receivers or welded pressure vessels of Class I, II and III	no maximum
Auxiliary unit (such as evaporators, heaters, filters, coolers, pumps etc)	no maximum
Boiler mountings	no maximum
Electric generators and motors	no maximum
Machinery items, gearing, shafting propellers etc	no maximum
Oil fuel flexible pipes:	
Examination of design, inspection and witnessing of tests of the prototype and issue of certificates of inspection and test where appropriate	no maximum
Oily-water separators:	
Examination of design, witnessing of hydraulic test and inspection of the appliance	no maximum
Reversing and Reduction gear-boxes for use with engines not exceeding 373 KW (500 BHP)	no maximum
For examination of each design	no maximum
Steering gear, main and auxiliary, complete for each item	no maximum

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Watertight Doors:	
Examination of design, inspection and witnessing of tests of the prototype and issue of a certificate of inspection and tests where appropriate	no maximum
The survey of watertight doors of an approved design at the maker's works	no maximum
For the inspection of machinery parts, i.e. forgings, casting, pipes etc., and for witnessing tests of materials, electrodes etc.	no maximum
For the inspection and verification of testing machines:	
For the inspection and verification of testing machines used for testing materials coming under Port Department survey and for the issue of a certificate	no maximum
For the inspection and verification of testing machines not used for testing materials coming under Port Department survey and for the issue of a certificate	no maximum
For Certificate of Inspection and Certificates of Test:	
Where a maker requires such a certificate in respect of any of the inspections and tests above the fees for which do not include the issue of a certificate	no maximum
For an additional copy of a certificate	a fixed fee of £18.75
Additional fee for registering any design as standard	a fixed fee of £155.00

PART II

Radio

Note:

The first three fees are in addition to the fee for a passenger certificate, a safety certificate and a safety equipment certificate

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Fees for radio certificates and radio exemption certificates

For the survey for a radio certificate, or a qualified radio certificate together with an exemption certificate:

in the case of a ship:	
not exceeding 1,600 tons	143.00
exceeding 1,600 tons	223.00
For an exemption certificate only, relating to radio	24.00
For a copy of a radio certificate, or a qualified radio certificate together with an exemption certificate	18.75
For a copy of an exemption certificate only	18.75

Fees for inspection of radio installations on board ship

For the inspection of a ship under section 76(1) of the Merchant Shipping Act 1970 (not being an inspection made with a view to the issue of a passenger certificate or of any of the certificates referred to in sections 7 and 9 of the Merchant Shipping (Safety Convention) Act 1949, and for the issue of a report of Form SUR 69 (Radio);

(a) on the application of the owner of the ship for the purposes of seeing that she is properly provided with a radio installation and radio officers or radiotelephone operators in conformity with the Radio Rules, or

(b) otherwise than on the application of the owner, as a result of changes or modification in her radio equipment or as a result of an accident to the ship or a defect which affects the efficiency or completeness of a radio installation:

for a complete inspection - in the case of a ship:

not exceeding 1,600 tons	143.00
exceeding 1,600 tons	223.00

for a partial inspection:

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

for each visit made to the ship	64.00 subject to a maximum not exceeding the appropriate fee for a complete inspection.
For the inspection of a ship otherwise than on the application of the owner, if the ship is found to be not properly provided with radio installation or radio officers or radiotelephone operators:	
for each visit made the ship	64.00 subject to a maximum not exceeding the appropriate fee for a complete inspection.
For the inspection of a ship for the purpose of seeing that she is properly provided with radio equipment not required by the Radio Rules but which has been fitted as a condition of exemption from specific requirements of such Radio Rules	64.00
For the initial inspection of a Class VI or Class VI A passenger ship for the purpose of seeing that she is properly provided with a VHF radio installation in accordance with the Radio Rules	55.95
For a copy of a form SUR 69 (Radio)	18.95
Fees for testing types of marine radio and navigational aids equipment	
For testing a type and, where appropriate, issue of a type test certificate of:	
Main radiotelegraph transmitter	
Main radiotelegraph receiver	
Reserve radiotelegraph transmitter	
Reserve radiotelegraph receiver	
Radiotelegraph automatic keying device	
Radiotelegraph loudspeaker watchkeeping receiver	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Radiotelephone installation	
Radiotelephone alarm signal generating device	
Radiotelephone loudspeaker watchkeeping receiver	
Motor lifeboat fixed radio equipment	
Portable radio equipment for survival craft	
Radiotelephone distress equipment for fishing boats' survival craft	
Radiotelegraph auto alarm equipment	
Direction-finder	
Radar Echo-sounder	the fee will be determined by the amount of work involved.
Fees for radio certificates and radio exemption certificates in respect of fishing vessels and for the inspection of radio installations on board fishing vessels	
For the inspection of a fishing vessel on the application of the owner under section 76(1) of the Merchant Shipping Act 1970 for the purpose of seeing that the vessel is properly provided with a radio installation and radio operators in compliance with the Merchant Shipping (Radio) (Fishing Vessels) Rules 1974, for the issue or renewal of a United Kingdom fishing vessel certificate issued under rule 126 of the Fishing Vessels (Safety Provisions) Rules 1975.	
Class I not exceeding 1,600 tons	119.00
exceeding 1,600 tons	223.00
Class II or Class III	119.00
For the periodical inspection of a fishing vessel, on the application of the owner, under section 76(1) of the Act of 1970 pursuant to rule 130 of the Fishing vessels (Safety Provisions Rules 1975.	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Class I not exceeding 1,600 tons	119.00
exceeding 1,600 tons	223.00
Class II or Class III	119.00
For the inspection of a fishing vessel under section 76(1) of the Act of 1970: (a) on the application of the owner other than in the above classes for the purpose of seeing that the vessel is properly provided with a radio installation and radio operators in compliance with the fishing vessels Radio Rules or (b) otherwise than on application of the owner, as a result of changes or modification in the radio equipment after compliance with the fishing vessels Radio Rules: for a complete inspection in the case of a vessel of:	
Class I	
not exceeding 1,600 tons	119.00
exceeding 1,600 tons	223.00
Class II or Class III	119.00
for a partial inspection	60.00 per visit subject to a maximum not exceeding the appropriate fee.
For the inspection of a fishing vessel, otherwise than on the application of the owner under section 76(1) of the Act of 1970 where the vessel is found not to be properly provided with a radio installation or radio apparatus required by the fishing vessels Radio Rules or any condition subject to which the vessel has been exempted from a requirement of the fishing vessels Radio Rules	60.00 per visit subject to a maximum not exceeding the appropriate fee.
For the inspection of a fishing vessel on the application of the owner under Section 76(1) of the Act of 1970 for the purpose of exempting the vessels from a requirement of the fishing vessels Radio Rules	60.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

For the issue of an exemption certificate only, relating to radio	18.00
For a copy of a radio certificate, or a qualified radio certificate together with an exemption certificate	18.75
For a copy of an exemption certificate only	18.75

PART III
RADAR

Note:
The fees in this Part are statutory fees

Fees for the inspection of the radar installation on a ship under section 76(1) of the Merchant Shipping Act 1970	
On the application of the owner for the purpose of seeing that the radar installation provided is in accordance with the Rules	no maximum
Otherwise than on the application of the owner, where the ship is found not to be complying with the provisions of the Rules or any condition subject to which the ship has been exempted from a requirement of the Rules	no maximum

SAFETY EQUIPMENT

Note:
(a) The fees cover the survey of life-saving appliances, fire appliances, pilot ladders, lights and sound signal apparatus, as appropriate, the issue of a form SUR 183 (Record of Safety Equipment) if required and the issue of a safety equipment certificate (or a qualified safety equipment certificate together with an exemption certificate).

(b) The fees apply also to a ship which would be required to hold a safety equipment certificate but for the fact that the ship is not registered in a 1960 SOLAS Convention country, or a territory

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

to which the Convention has been extended. In this case a safety equipment certificate will not be issued.

(c) For a partial inspection of the safety equipment certificate on a ship the form SUR 183 will be completed only for those items surveyed.

Fees for safety equipment certificate
For the initial survey of a ship for the initial issue of a safety equipment certificate or a qualified safety equipment certificate together with an exemption certificate:

in the case of a ship of:

500 tons or over but under 1,600 tons	4,432.00
1,600 tons or over but under 15,000 tons	4,432.00 plus an additional £609.40 for each 1,000 tons or part thereof by which the ship exceeds 1,600 tons.
15,000 tons or over	13,296.00

For the survey of a ship for a safety equipment certificate under regulation 4 of the Merchant Shipping (Cargo Ship Safety Equipment Survey) Regulations 1981:

in the case of a ship of::

500 tons or over but under 1,600 tons	554.00
1,600 tons or over but under 3,000 tons	886.00
3,000 tons or over	1,220.00

For the survey of a ship for a safety equipment certificate under regulation 4 of the Merchant Shipping (Cargo Ship Safety Equipment Survey) Regulations 1981:

in the case of a ship of:

500 tons or over but under 1,600 tons	333.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

1,600 tons or over but under 3,000 tons	665.00
3,000 tons or over	776.00
For an additional copy of a certificate or an additional copy of a form SUR 183	a fixed fee of £18.75
For a partial inspection of the safety equipment of a ship required to hold a safety equipment certificate:	
(a) on the application of the owner; or	
(b) not on the application of the owner, where equipment is found defective	no maximum
For a partial inspection of life-saving appliances on a ship making a voyage with a trials party on board where the ship is not under survey by the Department.	no maximum
*(Where a ship is under a Port Department survey and the appropriate survey fee or deposit has been paid, such inspection will be counted as part of the survey and no further fee will be charged)	
Fees chargeable by the Department where the survey or inspection of a ship is to be carried out at a port outside Gibraltar by a ship surveyor not employed by the Department but specially appointed for the purpose under the Merchant Shipping Act.	no maximum
(The fee is in addition to the fee payable for the service to the specially appointed surveyor or his employer)	
Fees for inspection of the safety equipment of ships not required to hold safety equipment certificates.	
For the initial inspection of the safety equipment of a ship on the application of the owner and for the issue of a report on form SUR 183:	
in the case of a ship of:: under 50 tons	886.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

50 tons or over but under 3,000 tons	886 plus an additional £277 for each 100 tons or part thereof by which the ship exceeds 50 tons.
3,000 tons or over	9,418.00
For a subsequent inspection of the safety equipment of a ship on the application of the owner and for the issue of a report on form SUR 183:	
in the case of a ship of:	
under 500 tons	388.00
500 tons or over but under 3,000	£388 plus an additional £111 for each 500 tons or part thereof by which the ship exceeds 500 tons
3,000 tons or over	1,000
For an additional copy of form SUR 183	a fixed fee of £18.75
For a partial inspection of the safety equipment of a ship:	
(a) on the application of the owner; or	
(b) not on the application of the owner, where equipment is found defective; or	
(c) not on the application of the owner, as the result of changes or modifications in the equipment	no maximum.
For a partial inspection of life-saving appliances on a ship making a voyage with a trials party on board where the ship is not under survey by the Department	no maximum
(Where a ship is under Department survey and the appropriate survey fee or deposit has been paid, such inspection will be counted as part of the survey and no further fee will be charged)	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Fees chargeable by the Department where the survey or inspection of a ship is to be carried out at a port outside Gibraltar by a ship surveyor not employed by the Department but specially appointed for the purpose under the Merchant Shipping Act	no maximum
(The fee is in addition to the fee payable for the service to the specially appointed surveyor or his employer)	
For the issue of an amended exemption certificate, or for the issue of an exemption certificate or amended exemption certificate applied for other than at the time of normal survey	no maximum
Fees for testing and inspecting life-saving appliances	
(a) The maximum number of person for which a rowing lifeboat and a mechanically hand propelled lifeboat can be certified is 60 and 100 respectively.	
(b) When lifeboats and buoyant apparatus are inspected at a boat builders at the same visit minimum fee for buoyant apparatus will not apply	
For the inspection during construction, for the certification or re-certification of lifeboats and buoyants apparatus, and for the issue of a report of inspection on form SUR 123A:	
For the inspection of a lifeboat constructed of glass-reinforced plastics the following fixed fees shall apply:	
in the case of a lifeboat which is certified to carry	
less than 10 persons	133.00
at least 10 persons but less than 20 persons	170.00
at least 20 persons but less than 30 persons	204.00
at least 30 persons but less than 40 persons	247.00
at least 40 persons but less than 50 persons	289.00
at least 50 persons but less than 60 persons	332.00
at least 60 persons but less than 70 persons	375.00
at least 70 persons but less than 80 persons	418.00
at least 80 persons but less than 90 persons	461.00
at least 90 persons but less than 100 persons	504.00
at least 100 persons but less than 120 persons	589.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

at least 120 persons but not more than 150 persons (maximum permitted number)	719.00
For the inspection of process and quality of production of lifeboats or bouyant apparatus constructed of glass reinforced plastics at the manufacturer's works	no maximum
For the inspection of a lifeboat constructed of materials other than glass reinforced plastics the following fixed fees shall apply	
for a lifeboat constructed of wood	twice the appropriate fee.
for a lifeboat constructed of steel	one and a half times the appropriate fee
for a lifeboat constructed of aluminium	one and a half time the appropriate fee
for a lifeboat constructed of steel or aluminium and having built-in buoyancy tanks	twice the appropriate fee
for the inspection of mechanically hand propelled lifeboats, motor lifeboats and motor lifeboats fitted with a radio cabin and searchlight:	
for a mechanically hand propelled lifeboat	a fixed fee of the appropriate fee, plus £75.00 a fixed fee of the appropriate fee, plus £151.00
for a motor lifeboat fitted with a radio cabin and searchlight	a fixed fee of the appropriate fee plus £200
for the inspection of buoyant apparatus constructed of materials other than glass reinforced plastics	no maximum
For the inspection of buoyant apparatus constructed of glass reinforced plastics	no maximum

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

For the routine inspection of production of life-jackets at the manufacturer's works	no maximum
For the inspection of a buoyant materiel (excluding cork and kapok) and consideration of report of tests carried out by an independent authority, in addition to fees charged by the authority.	a fixed fee of £499.00
For the inspection at the manufacturer's works of boats' davits and winches intended for stock or for foreign ships	no maximum
For the inspection of inflatable lifeboats and inflatable boats and of servicing depots:	
For the inspection of processes and quality of production at the manufacturer's works	no maximum
For the inspection of servicing depot for each day or part of a day of a prescribed visit by the Department	no fee.
For the individual inspection and re-certification of an inflatable liferaft except where it is surveyed as part of a full l.s.a survey	a fixed fee of £112.00
(a) For the examination of the design, or a modification to a design, of a life-saving appliance, the witnessing of tests and inspection of an appliance made to the design; or	
(b) For the inspection of a proofed fabric or adhesive and consideration of report of tests carried out by an independent laboratory and	
(c) The issue of a certificate of tests if required	no maximum
Fees for witnessing of tests and inspection of fire appliances, cinema projectors or similar appliances.	
Fees for the inspection of lights and fog signals	
For the inspection of lights and fog signals on any ship: (a) on the application of the owner; or	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) not on the application of the owner, where equipment is found defective:	no maximum
Fees for the testing and inspection of lights and sound signal apparatus	
For the examination of the design of a light and sound signal apparatus, the testing and inspection of the first apparatus made to the design, and if required, the issue of a certificate of test:	
Navigation lantern	
Burner	
Lens	
Daylight signalling lamp	
Sound signalling apparatus	
Any similar apparatus	no maximum
Fees for fire-detecting systems and fire extinguishing installations	
For the examination of the design of a fire-detecting system, inert gas system of fixed fire extinguishing installation or plans of a froth or carbon dioxide installation for fire extinguishing	no maximum
Inspection of Ship's Provisions	
Note:	
"The Regulations" means the Merchant Shipping (Provisions and Water) Regulations 1972 as amended and the Merchant Shipping (Provisions and Water) (Fishing Vessels) Regulations 1972 as amended.	
Fees for the inspection of provisions and water in ships and fishing vessels	
(a) on application of the owner for the purpose of seeing that the provisions of water provided are in accordance with the Regulations	

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(b) otherwise than on the application of the owner, where the provisions or water provided are found not to be in accordance with the Regulations	no maximum
Fees for the inspection of provisions and water in ships and fishing vessels following a complaint by a member of the crew:	
where the complaint is found to be justified	no maximum
where the complaint is found to be unjustified	no fee
Fees for the inspection on premises of provisions and water intended for supply to a ship or fishing vessel, where the provisions or water are found not to be in accordance with Regulations	no maximum

TABLE K

Surveyors Charges and general notes:

1. In cases where the exact fee cannot be calculated in advance a deposit equal to the estimated fee will be required. Any outstanding balance of charges incurred in the Service must be paid before a certificate is issued or the Service is completed.

2. Except where otherwise stated the fee for any Service carried out in Gibraltar will be determined by the amount of work involved, subject to the appropriate maximum fee. The total time for that Service including the time occupied by the Surveyor, Inspector or Superintendent in travelling to and from the place of Survey etc,. will be charged at £41.50 per hour or part thereof except Table L which will be charged at £4.25 per quarter of an hour.

3. The maximum number of hours to be included in the calculation of the cost of a Service in respect of travelling time shall be 2 hours for each visit made by the Surveyor, Inspector or Superintendent.

4. Where any of the Surveys, Inspections or Tests etc. listed in the tables are carried out outside Gibraltar, the travelling expenses (including the time occupied by the Surveyor or Inspector in travelling to and from the place of Survey etc.) and

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

subsistence allowances incurred by the Surveyor or Inspector are payable in addition to the fee shown.

5. The expression "tons" wherever it is used in these tables means gross tons and the gross tonnage of a ship having alternative tonnages is taken as the larger of these gross tonnages.

TABLE L

Engagement and Discharge of Seamen

Note:
These fees are statutory fees

Fees for the engagement and discharge of seamen

For the engagement and discharge of seamen before a Superintendent or for any service rendered in connection with a crew agreement at the request of the owner, agent or master:

where the service is performed elsewhere than in a Marine Office:	
Monday to Friday (excluding Public Holidays) between 9 a.m and 5p.m.	The fee will be determined by the amount of work involved, including travelling time, charged at an hourly rate of £17, subject to a minimum fee of £17.
at all other times	200% of the appropriate fee under (1) above.
where the service is performed in a Marine Office: Monday to Friday (excluding Public Holidays) between 9.a.m. and 5 p.m.	
where the service is performed in a Marine Office.	The fee will be determined by the amount of work involved charged at an hourly rate of £17,

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

	subject to a minimum fee of £4.25.
at all other times	200% of the appropriate fee under (1) above.

TABLE M

EXAMINATION FEES

For examination for a Certificate of Competency as	
Coxswain of a Motor Launch	£30.00
Engine Driver of a Motor Launch	£30.00
Lifeboatman per man	£9.00
Replacement of Certificates.	
Replacement copy of Certificate as Coxswain, Engine Driver or Lifeboatman	£9.00
Exemption to a hip for unqualified Officers.	
For an application for a dispensation as Deck or Marine Engineer Officer	£63.00
For application for other exemptions to a ship	£63.00

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

SCHEDULE 2.

Section 224(3).

SPECIAL MEASUREMENTS FOR PASSENGER SHIPS PLYING NOT SOUTH OF A LINE JOINING EUROPA POINT AND CARNERO POINT.

The clear area of the deck in square feet is to be divided by 10 and the quotient is the number of passengers and crew allowed to be carried.

One passenger to be deducted for every 3 square feet of passenger accommodation occupied by baggage or cargo.

SCHEDULE 3.
Revoked

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

SCHEDULE 4

Section 33.

ALTERATION OF PENALTIES

First Column Act Section	Second Column Amount of fine	First Column Act Section.	Second Column Amount of fine
	£		£
12(2)	400	107(2)	for 100 400
14(g)	400		for 50 200
17	400	108	1000
18(2)	400	109(2)	for 100 400
19(2)	400	for 50 200	
23(2)	400	110(2)	for 100 400
24(3)	400		for 10 100
26(2)	400	111	5000
27(1) & (2)	400	144(2)	400
30(1)	100	150(4)	200
31(3)	100	154(2)	200
37(2)	100	155(2)	200
59(1) & (2)	400	181(d)	100
59(3)	1000	189(2)	400
60(2)	400	191(2)	100
61(3)	400	192	400
63(1)	400	193(2)	400
64(1)	1000	194	400
77(1)	1000	196	1000
78(2)	400	197(1) & (2)	1000
79(2)	400	199	200
79(3)	for 100 400	204(2)	2000
	for 20 200	205(a) & (b)	1000
81	2000	207	400
85(4)	for 100 400	210(2)	2000
for 50 200		213(2)	100
86	1000	214(4)	1000
87(1)(2)&(4)	100	215(2)	400
89(3)	400	216(3)	200
104(1)	for 100 400		

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

SCHEDULE 5

INTERNATIONAL CONVENTION ON SALVAGE, 1989

PART I

TEXT OF CONVENTION

CHAPTER I

GENERAL PROVISIONS

ARTICLE I

Definitions

For the purpose of this Convention -

(a) Salvage operation means any act or activity undertaken to assist a vessel or any other property in danger in navigable waters or in any other waters whatsoever.

(b) Vessel means any ship or craft, or any structure capable of navigation.

(c) Property means any property not permanently and intentionally attached to the shoreline and includes freight at risk.

(d) Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.

(e) Payment means any reward, remuneration or compensation due under this Convention.

(f) Organisation means the International Maritime Organisation.

(g) Secretary-General means the Secretary-General of the Organisation.

ARTICLE 2

Application of the Convention

This Convention shall apply whenever judicial or arbitral proceedings relating to matters dealt with in this Convention are brought in a State Party.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

ARTICLE 3

Platforms and drilling units

This Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

ARTICLE 4

State-owned vessels

1. Without prejudice to article 5, this Convention shall not apply to warships or other non-commercial vessels owned or operated by a State and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law unless that State decides otherwise.

2. Where a State Party decides to apply the Convention to its warships or other vessels described in paragraph 1, it shall notify the Secretary-General thereof specifying the terms and conditions of such application.

ARTICLE 5

Salvage operations controlled by public authorities

1. This Convention shall not affect any provisions of national law or any international Convention relating to salvage operations by or under the control of public authorities.

2. Nevertheless, salvors Carrying out such salvage operations shall be entitled to avail themselves of the rights and remedies provided for in this Convention in respect of salvage operations.

3. The extent to which a public authority under a duty to perform salvage operations may avail itself of the rights and remedies provided for in this Convention shall be determined by the law of the State where such authority is situated.

ARTICLE 6

Salvage contracts

1. This Convention shall apply to any salvage operations save to the extent that a contract otherwise provides expressly or by implication.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

2. The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

3. Nothing in this article shall affect the application of article 7 nor duties to prevent or minimise damage to the environment.

ARTICLE 7

Annulment and modification of contracts

A contract or any terms thereof may be annulled or modified if -

(a) the contract has been entered into under undue influence or the influence of danger and its terms are inequitable; or

(b) the payment under the contract is in an excessive degree too large or too small for the services actually rendered.

CHAPTER II

PERFORMANCE OF SALVAGE OPERATIONS

ARTICLE 8

Duties of the salvor and of the owner and master

1. The salvor shall owe a duty to the owner of the vessel or other property in danger -

(a) to carry out the salvage operations with due care;

(b) in performing the duty specified in subparagraph (a), to exercise due care to prevent or minimise damage to the environment;

(c) whenever circumstances reasonably require, to seek assistance from other salvors; and

(d) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the vessel or other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

2. The owner and master of the vessel or the owner of other property in danger shall owe a duty to the salvor -

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) to co-operate fully with him during the course of the salvage operations;

(b) in so doing, to exercise due care to prevent or minimise damage to the environment; and

(c) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

ARTICLE 9

Rights of coastal States

Nothing in this Convention shall affect the right of the coastal State concerned to take measures in accordance with generally recognised principles of international law to protect its coastline or related interests from pollution or the threat of pollution following upon a maritime casualty or acts relating to such a casualty which may reasonably be expected to result in major harmful consequences, including the right of a coastal State to give directions in relation to salvage operations.

ARTICLE 10

Duty to render assistance

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon, to render assistance to any person in danger of being lost at sea.

2. The States Parties shall adopt the measures necessary to enforce the duty set out in paragraph I.

3. The owner of the vessel shall incur no liability for a breach of the duty of the master under paragraph I.

ARTICLE 11

Co-operation

A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.

CHAPTER III

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

RIGHTS OF SALVORS

ARTICLE 12

Conditions for reward

1. Salvage operations which have had a useful result give right to a reward.

2. Except as otherwise provided, no payment is due under this Convention if the salvage operations have had no useful result.

3. This chapter shall apply, notwithstanding that the salved vessel and the vessel undertaking the salvage operations belong to the same owner.

ARTICLE 13

Criteria for fixing the reward

1. The reward shall be fixed with a view to encouraging salvage Operations, taking into account the following criteria without regard to the order in which they are presented below -

(a) the salved value of the vessel and other Property;

(b) the skill and efforts of the salvors in preventing or minimising damage to the environment;

(c) the measure of success obtained by the salvor;

(d) the nature and degree of the danger;

(e) the skill and efforts of the salvors in salving the vessel, other property and life;

(f) the time used and expenses and losses incurred by the salvors;

(g) the risk of liability and other risks run by the salvors or their equipment;

(h) the promptness of the Services rendered;

(i) the availability and use of vessels or other equipment intended for salvage operations.

(j) the state of readiness and efficiency of the salvor's equipment and the value thereof.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

2. Payment of a reward fixed according to paragraph I shall be made by all of the vessel and other property interests in proportion to their respective salved values. However, a State Party may in its national law provide that the payment of a reward has to be made by one of these interests, subject to a right of recourse of this interest against the other interests for their respective shares. Nothing in this article shall prevent any right of defence.

3. The rewards, exclusive of any interest and recoverable legal Costs that may be payable thereon, shall not exceed the salved value of the vessel and other property.

ARTICLE 14

Special compensation

1. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 13 at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the owner of that vessel equivalent to his expenses as herein defined.

2. If, in the circumstances set out in paragraph 1, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the owner to the salvor under paragraph I may be increased up to a maximum of 30 per cent. of the expenses incurred by the salvor. However, the tribunal, if it deems it fair and just to do so and bearing in mind the relevant criteria set out in article 13, paragraph I, may increase such special compensation further, but in no event shall the total increase be more than 100 per cent. of the expenses incurred by the salvor.

3. Salvor's expenses for the purpose of paragraphs I and 2 means the out-of-pocket expenses reasonably incurred by the salvor in the Salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking Into consideration the criteria set out in article 13, paragraph 1(h), (i) and (j).

4. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 13.

5. If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

6. Nothing in this article shall affect any right of recourse on the part of the owner of the vessel.

ARTICLE 15

Apportionment between salvors

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

1. The apportionment of a reward under article 13 between salvors shall be made on the basis of the criteria contained in that article.

2. The apportionment between the owner, master and other persons in the service of each salving vessel shall be determined by the law of the flag of that vessel. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the law governing the contract between the salvor and his servants.

ARTICLE 16

Salvage of persons

1. No remuneration is due from persons whose lives are saved, but nothing in this article shall affect the provisions of national law on this subject.

2. A salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salving the vessel or other property or preventing or minimising damage to the environment.

ARTICLE 17

Services rendered under existing contracts

No payment is due under the provisions of this Convention unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

ARTICLE 18

The effect of salvor's misconduct

A salvor may be deprived of the whole or part of the payment due under this Convention to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

ARTICLE 19

Prohibition of salvage operations

Services rendered notwithstanding the express and reasonable prohibition of the owner or master of the vessel or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Convention.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

CHAPTER IV

CLAIMS AND ACTIONS

ARTICLE 20

Maritime lien

1. Nothing in this Convention shall affect the salvor's maritime lien under any international convention or national law.

2. The salvor may not enforce his maritime lien when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

ARTICLE 21

Duty to provide security

1. Upon the request of the salvor a person liable for a payment due under this Convention shall provide satisfactory security for the claim, including interest and costs of the salvor.

2. Without prejudice to paragraph 1, the owner of the salved vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.

3. The salved vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

ARTICLE 22

Interim payment

1. The tribunal having jurisdiction over the claim of the salvor may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.

2. In the event of an interim payment under this article the security provided under article 21 shall be reduced accordingly.

ARTICLE 23

Limitation of actions

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

1. Any action relating to payment under this Convention shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.

2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.

3. An action for indemnity by a person liable may be instituted even after the expiration of the limitation period provided for in the preceding paragraphs, if brought within the time allowed by the law of the State where proceedings are instituted.

ARTICLE 24

Interest

The right of the salvor to interest on any payment due under this Convention shall be determined according to the law of the State in which the tribunal seized of the case is situated.

ARTICLE 25

State-owned cargoes

Unless the State owner consents, no provision of this Convention shall be used as a basis for the seizure, arrest or detention by any legal process of, nor for any proceedings in rem against, non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

ARTICLE 26

Humanitarian cargoes

No provision of this Convention shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage services rendered in respect of such humanitarian cargoes.

ARTICLE 27

Publication of arbitral awards

States Parties shall encourage, as far as possible and with the consent of the parties, the publication of arbitral awards made in salvage cases.

PART II

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

Interpretation

1. In this Part of this Schedule–

(a) any reference to a numbered article is a reference to the article of the Convention which is so numbered; and

(b) references to "the Convention" are references to the International Convention on Salvage 1989 as set out in Part I of this Schedule.

Assistance to persons in danger at sea

2.(1) The master of a vessel who fails to comply with the duty imposed on him by article 10 paragraph 1 commits an offence and shall be liable -

(a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding level 3 on the standard scale or both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine at level 4 on the standard scale, or both.

(2) Compliance by the master of a vessel with that duty shall not affect his right or the right of any other person to a payment under the Convention or under any contract.

The reward and special compensation: the common understanding

3. In fixing a reward under article 13 of the Convention and assessing special compensation under article 14, the court or arbitrator is under no duty to fix a reward under article 13 up to the maximum salved value of the vessel and other property before assessing the special compensation to be paid under article 14.

Salvage payment

4.(1) This paragraph applies where–

(a) services are rendered wholly or in part in Gibraltar's territorial waters in saving life from a vessel of any nationality, or elsewhere in saving life from any ship registered in Gibraltar; and

(b) either–

(i) the vessel and other property are destroyed, or

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(ii) the sum to which the salvor is entitled under article 16, paragraph 2 is less than a reasonable amount for the services rendered in saving life.

(2) Where this Paragraph applies, the Minister with responsibility for transport may, if he thinks fit, pay to the salvor such sum or, as the case may be, such additional sum as he thinks fit in respect of the services rendered in saving life.

Meaning of "judicial proceedings"

5. References in the Convention to judicial proceedings are references to proceedings in the Supreme Court or in the Court of First Instance[♣]: and any reference to the tribunal having jurisdiction (so far as it refers to judicial proceedings) shall be construed accordingly.

Meaning of "State Party"

6.(1) An Order made by the Minister with responsibility for transport for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention in respect of a specified country shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention in respect of that country.

(2) In this paragraph "country" includes "territory."

[♣] *Court of first Instance Act repealed by the Administration of Justice Act 2004 (2004-11) s.3 as from 1.9.2004. All references to the Court of First Instance shall be read as if it were a reference to the Supreme Court (see Act 2004-11 s.7).*

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

SCHEDULE 6

NAIROBI INTERNATIONAL CONVENTION ON THE REMOVAL OF WRECKS, 2007

Section 179A(2)

Preamble

THE STATES PARTIES TO THE PRESENT CONVENTION,

CONSCIOUS of the fact that wrecks, if not removed, may pose a hazard to navigation or the marine environment,

CONVINCED of the need to adopt uniform international rules and procedures to ensure the prompt and effective removal of wrecks and payment of compensation for the costs therein involved,

NOTING that many wrecks may be located in States' territory, including the territorial sea,

RECOGNIZING the benefits to be gained through uniformity in legal regimes governing responsibility and liability for removal of hazardous wrecks,

BEARING IN MIND the importance of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, and of the customary international law of the sea, and the consequent need to implement the present Convention in accordance with such provisions,

HAVE AGREED as follows:

Article 1

Definitions

For the purposes of this Convention:

1 "Convention area" means the exclusive economic zone of a State Party, established in accordance with international law or, if a State Party has not established such a zone, an area beyond and adjacent to the territorial sea of that State determined by that State in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.

2 "Ship" means a seagoing vessel of any type whatsoever and includes hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms, except when such platforms are on location engaged in the exploration, exploitation or production of seabed mineral resources.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

3 "Maritime casualty" means a collision of ships, stranding or other incident of navigation, or other occurrence on board a ship or external to it, resulting in material damage or imminent threat of material damage to a ship or its cargo.

4 "Wreck", following upon a maritime casualty, means:

(a) a sunken or stranded ship; or

(b) any part of a sunken or stranded ship, including any object that is or has been on board such a ship; or

(c) any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea; or

(d) a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger are not already being taken.

5 "Hazard" means any condition or threat that:

(a) poses a danger or impediment to navigation; or

(b) may reasonably be expected to result in major harmful consequences to the marine environment, or damage to the coastline or related interests of one or more States.

6 "Related interests" means the interests of a coastal State directly affected or threatened by a wreck, such as:

(a) maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned;

(b) tourist attractions and other economic interests of the area concerned;

(c) the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife; and

(d) offshore and underwater infrastructure.

7 "Removal" means any form of prevention, mitigation or elimination of the hazard created by a wreck. "Remove", "removed" and "removing" shall be construed accordingly.

8 "Registered owner" means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship at the time of the maritime

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

casualty. However, in the case of a ship owned by a State and operated by a company which in that State is registered as the operator of the ship, "registered owner" shall mean such company.

9 "Operator of the ship" means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all duties and responsibilities established under the International Safety Management Code, as amended.

10 "Affected State" means the State in whose Convention area the wreck is located.

11 "State of the ship's registry" means, in relation to a registered ship, the State of registration of the ship and, in relation to an unregistered ship, the State whose flag the ship is entitled to fly.

12 "Organization" means the International Maritime Organization.

13 "Secretary-General" means the Secretary-General of the Organization.

Article 2

Objectives and general principles

1 A State Party may take measures in accordance with this Convention in relation to the removal of a wreck which poses a hazard in the Convention area.

2 Measures taken by the Affected State in accordance with paragraph 1 shall be proportionate to the hazard.

3 Such measures shall not go beyond what is reasonably necessary to remove a wreck which poses a hazard and shall cease as soon as the wreck has been removed; they shall not unnecessarily interfere with the rights and interests of other States including the State of the ship's registry, and of any person, physical or corporate, concerned.

4 The application of this Convention within the Convention area shall not entitle a State Party to claim or exercise sovereignty or sovereign rights over any part of the high seas.

5 States Parties shall endeavour to co-operate when the effects of a maritime casualty resulting in a wreck involve a State other than the Affected State.

Article 3

Scope of application

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

1 Except as otherwise provided in this Convention, this Convention shall apply to wrecks in the Convention area.

2 A State Party may extend the application of this Convention to wrecks located within its territory, including the territorial sea, subject to article 4, paragraph 4. In that case, it shall notify the Secretary-General accordingly, at the time of expressing its consent to be bound by this Convention or at any time thereafter. When a State Party has made a notification to apply this Convention to wrecks located within its territory, including the territorial sea, this is without prejudice to the rights and obligations of that State to take measures in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing them in accordance with this Convention. The provisions of articles 10, 11 and 12 of this Convention shall not apply to any measures so taken other than those referred to in articles 7, 8 and 9 of this Convention.

3 When a State Party has made a notification under paragraph 2, the "Convention area" of the Affected State shall include the territory, including the territorial sea, of that State Party.

4 A notification made under paragraph 2 above shall take effect for that State Party, if made before entry into force of this Convention for that State Party, upon entry into force. If notification is made after entry into force of this Convention for that State Party, it shall take effect six months after its receipt by the Secretary-General.

5 A State Party that has made a notification under paragraph 2 may withdraw it at any time by means of a notification of withdrawal to the Secretary-General. Such notification of withdrawal shall take effect six months after its receipt by the Secretary-General, unless the notification specifies a later date.

Article 4

Exclusions

1 This Convention shall not apply to measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as amended, or the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as amended.

2 This Convention shall not apply to any warship or other ship owned or operated by a State and used, for the time being, only on Government non-commercial service, unless that State decides otherwise.

3 Where a State Party decides to apply this Convention to its warships or other ships as described in paragraph 2, it shall notify the Secretary-General, thereof, specifying the terms and conditions of such application.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

4 (a) When a State Party has made a notification under article 3, paragraph 2, the following provisions of this Convention shall not apply in its territory, including the territorial sea:

(i) Article 2, paragraph 4;

(ii) Article 9, paragraphs 1,5,7, 8,9 and 10; and

(iii) Article 15.

(b) Article 9, paragraph 4, insofar as it applies to the territory, including the territorial sea of a State Party, shall read:

Subject to the national law of the Affected State, the registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal ommences, the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

Article 5

Reporting wrecks

1 A State Party shall require the master and the operator of a ship flying its flag to report to the Affected State without delay when that ship has been involved in a maritime casualty resulting in a wreck. To the extent that the reporting obligation under this article has been fulfilled either by the master or the operator of the ship, the other shall not be obliged to report.

2 Such reports shall provide the name and the principal place of business of the registered owner and all the relevant information necessary for the Affected State to determine whether the wreck poses a hazard in accordance with article 6, including:

(a) the precise location of the wreck;

(b) the type, size and construction of the wreck;

(c) the nature of the damage to, and the condition of, the wreck;

(d) the nature and quantity of the cargo, in particular any hazardous and noxious substances; and

(e) the amount and types of oil, including bunker oil and lubricating oil, on board.

Article 6

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Determination of hazard

When determining whether a wreck poses a hazard, the following criteria should be taken into account by the Affected State:

(a) the type, size and construction of the wreck;

(b) depth of the water in the area;

(c) tidal range and currents in the area;

(d) particularly sensitive sea areas identified and, as appropriate, designated in accordance with guidelines adopted by the organization, or a clearly defined area of the exclusive economic zone where special mandatory measures have been adopted pursuant to article 211, paragraph 6, of the United Nations Convention on the Law of the Sea, 1982;

(e) proximity of shipping routes or established traffic lanes;

(f) traffic density and frequency;

(g) type of traffic;

(h) nature and quantity of the wreck's cargo, the amount and types of oil (such as bunker oil and lubricating oil) on board the wreck and, in particular, the damage likely to result should the cargo or oil be released into the marine environment;

(i) vulnerability of port facilities;

(j) prevailing meteorological and hydrographical conditions;

(k) submarine topography of the area;

(l) height of the wreck above or below the surface of the water at lowest astronomical tide;

(m) acoustic and magnetic profiles of the wreck;

(n) proximity of offshore installations, pipelines, telecommunications cables and similar structures; and

(o) any other circumstances that might necessitate the removal of the wreck.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

Article 7

Locating wrecks

1 Upon becoming aware of a wreck, the Affected State shall use all practicable means, including the good offices of States and organizations, to warn mariners and the States concerned of the nature and location of the wreck as a matter of urgency.

2 If the Affected State has reason to believe that a wreck poses a hazard, it shall ensure that all practicable steps are taken to establish the precise location of the wreck.

Article 8

Marking of wrecks

1 If the Affected State determines that a wreck constitutes a hazard, that State shall ensure that all reasonable steps are taken to mark the wreck.

2 In marking the wreck, all practicable steps shall be taken to ensure that the markings conform to the internationally accepted system of buoyage in use in the area where the wreck is located.

3 The Affected State shall promulgate the particulars of the marking of the wreck by use of all appropriate means, including the appropriate nautical publications.

Article 9

Measures to facilitate the removal of wrecks

1 If the Affected State determines that a wreck constitutes a hazard, that State shall immediately:

(a) inform the State of the ship's registry and the registered owner; and

(b) proceed to consult the State of the ship's registry and other States affected by the wreck regarding measures to be taken in relation to the wreck.

2 The registered owner shall remove a wreck determined to constitute a hazard.

3 When a wreck has been determined to constitute a hazard, the registered owner, or other interested party, shall provide the competent authority of the Affected State with evidence of insurance or other financial security as required by article 12.

4 The registered owner may contract with any salvor or other person to remove the wreck determined to constitute a hazard on behalf of the owner. Before such removal commences,

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

the Affected State may lay down conditions for such removal only to the extent necessary to ensure that the removal proceeds in a manner that is consistent with considerations of safety and protection of the marine environment.

5 When the removal referred to in paragraphs 2 and 4 has commenced, the Affected State may intervene in the removal only to the extent necessary to ensure that the removal proceeds effectively in a manner that is consistent with considerations of safety and protection of the marine environment.

6. The Affected State shall:

(a) set a reasonable deadline within which the registered owner must remove the wreck, taking into account the nature of the hazard determined in accordance with article 6;

(b) inform the registered owner in writing of the deadline it has set and specify that, if the registered owner does not remove the wreck within that deadline, it may remove the wreck at the registered owner's expense; and

(c) inform the registered owner in writing that it intends to intervene immediately in circumstances where the hazard becomes particularly severe.

7 If the registered owner does not remove the wreck within the deadline set in accordance with paragraph 6(a), or the registered owner cannot be contacted, the Affected State may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

8 In circumstances where immediate action is required and the Affected State has informed the State of the ship's registry and the registered owner accordingly, it may remove the wreck by the most practical and expeditious means available, consistent with considerations of safety and protection of the marine environment.

9 States Parties shall take appropriate measures under their national law to ensure that their registered owners comply with paragraphs 2 and 3.

10 States Parties give their consent to the Affected State to act under paragraphs 4 to 8, where required.

11 The information referred to in this article shall be provided by the Affected State to the registered owner identified in the reports referred to in article 5, paragraph 2.

Article 10

Liability of the owner

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

1 Subject to article 11, the registered owner shall be liable for the costs of locating, marking and removing the wreck under articles 7, 8 and 9, respectively, unless the registered owner proves that the maritime casualty that caused the wreck:

(a) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;

(b) was wholly caused by an act or omission done with intent to cause damage by a third party; or

(c) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

2 Nothing in this Convention shall affect the right of the registered owner to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

3 No claim for the costs referred to in paragraph 1 may be made against the registered owner otherwise than in accordance with the provisions of this Convention. This is without prejudice to the rights and obligations of a State Party that has made a notification under article 3, paragraph 2, in relation to wrecks located in its territory, including the territorial sea, other than locating, marking and removing in accordance with this Convention.

4 Nothing in this article shall prejudice any right of recourse against third parties.

Article 11

Exceptions to liability

1 The registered owner shall not be liable under this Convention for the costs mentioned in article 10, paragraph 1 if, and to the extent that, liability for such costs would be in conflict with:

(a) the International Convention on Civil Liability for Oil Pollution Damage, 1969, as amended;

(b) the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996, as amended;

(c) the Convention on Third Party Liability in the Field of Nuclear Energy, 1960, as amended, or the Vienna Convention on Civil Liability for Nuclear Damage,

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

1963, as amended; or national law governing or prohibiting limitation of liability for nuclear damage; or

(d) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as amended;

provided that the relevant convention is applicable and in force.

2 To the extent that measures under this Convention are considered to be salvage under applicable national law or an international convention, such law or convention shall apply to questions of the remuneration or compensation payable to salvors to the exclusion of the rules of this Convention.

Article 12

Compulsory insurance or other financial security

1 The registered owner of a ship of 300 gross tonnage and above and flying the flag of a State Party shall be required to maintain insurance or other financial security, such as a guarantee of a bank or similar institution, to cover liability under this Convention in an amount equal to the limits of liability under the applicable national or international limitation regime, but in all cases not exceeding an amount calculated in accordance with article 6(1)(b) of the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.

2 A certificate attesting that insurance or other financial security is in force in accordance with the provisions of this Convention shall be issued to each ship of 300 gross tonnage and above by the appropriate authority of the State of the ship's registry after determining that the requirements of paragraph 1 have been complied with. With respect to a ship registered in a State Party, such certificate shall be issued or certified by the appropriate authority of the State of the ship's registry; with respect to a ship not registered in a State Party it may be issued or certified by the appropriate authority of any State Party. This compulsory insurance certificate shall be in the form of the model set out in the annex to this Convention, and shall contain the following particulars:

(a) name of the ship, distinctive number or letters and port of registry;

(b) gross tonnage of the ship;

(c) name and principal place of business of the registered owner;

(d) IMO ship identification number;

(e) type and duration of security;

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(f) name and principal place of business of insurer or other person giving security and, where appropriate, place of business where the insurance or security is established; and

(g) period of validity of the certificate, which shall not be longer than the period of validity of the insurance or other security.

3 (a) A State Party may authorize either an institution or an organization recognized by it to issue the certificate referred to in paragraph 2. Such institution or organization shall inform that State of the issue of each certificate. In all cases, the State Party shall fully guarantee the completeness and accuracy of the certificate so issued and shall undertake to ensure the necessary arrangements to satisfy this obligation.

(b) A State Party shall notify the Secretary-General of:

(i) the specific responsibilities and conditions of the authority delegated to an institution or organization recognized by it;

(ii) the withdrawal of such authority; and

(iii) the date from which such authority or withdrawal of such authority takes effect.

An authority delegated shall not take effect prior to three months from the date on which notification to that effect was given to the Secretary-General.

(c) The institution or organization authorized to issue certificates in accordance with this paragraph shall, as a minimum, be authorized to withdraw these certificates if the conditions under which they have been issued are not maintained. In all cases the institution or organization shall report such withdrawal to the State on whose behalf the certificate was issued.

4 The certificate shall be in the official language or languages of the issuing State. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages and, where the State so decides, the official language(s) of the State may be omitted.

5 The certificate shall be carried on board the ship and a copy shall be deposited with the authorities who keep the record of the ship's registry or, if the ship is not registered in a State Party, with the authorities issuing or certifying the certificate.

6 An insurance or other financial security shall not satisfy the requirements of this article if it can cease for reasons other than the expiry of the period of validity of the insurance or security specified in the certificate under paragraph 2 before three months have elapsed from the date on which notice of its termination is given to the authorities referred to in paragraph 5 unless

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

the certificate has been surrendered to these authorities or a new certificate has been issued within the said period. The foregoing provisions shall similarly apply to any modification, which results in the insurance or security no longer satisfying the requirements of this article.

7 The State of the ship's registry shall, subject to the provisions of this article and having regard to any guidelines adopted by the Organization on the financial responsibility of the registered owners, determine the conditions of issue and validity of the certificate.

8 Nothing in this Convention shall be construed as preventing a State Party from relying on information obtained from other States or the Organization or other international organizations relating to the financial standing of providers of insurance or financial security for the purposes of this Convention. In such cases, the State Party relying on such information is not relieved of its responsibility as a State issuing the certificate required by paragraph 2.

9 Certificates issued and certified under the authority of a State Party shall be accepted by other States Parties for the purposes of this Convention and shall be regarded by other States Parties as having the same force as certificates issued or certified by them, even if issued or certified in respect of a ship not registered in a State Party. A State Party may at any time request consultation with the issuing or certifying State should it believe that the insurer or guarantor named in the certificate is not financially capable of meeting the obligations imposed by this Convention.

10 Any claim for costs arising under this Convention may be brought directly against the insurer or other person providing financial security for the registered owner's liability. In such a case the defendant may invoke the defences (other than the bankruptcy or winding up of the registered owner) that the registered owner would have been entitled to invoke, including limitation of liability under any applicable national or international regime. Furthermore, even if the registered owner is not entitled to limit liability, the defendant may limit liability to an amount equal to the amount of the insurance or other financial security required to be maintained in accordance with paragraph 1. Moreover, the defendant may invoke the defence that the maritime casualty was caused by the wilful misconduct of the registered owner, but the defendant shall not invoke any other defence which the defendant might have been entitled to invoke in proceedings brought by the registered owner against the defendant. The defendant shall in any event have the right to require the registered owner to be joined in the proceedings.

11 A State Party shall not permit any ship entitled to fly its flag to which this article applies to operate at any time unless a certificate has been issued under paragraphs 2 or 14.

12 Subject to the provisions of this article, each State Party shall ensure, under its national law, that insurance or other security to the extent required by paragraph 1 is in force in respect of any ship of 300 gross tonnage and above, wherever registered, entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea.

13 Notwithstanding the provisions of paragraph 5, a State Party may notify the Secretary-General that, for the purposes of paragraph 12, ships are not required to carry on board or to

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

produce the certificate required by paragraph 2, when entering or leaving a port in its territory, or arriving at or leaving from an offshore facility in its territorial sea, provided that the State Party which issues the certificate required by paragraph 2 has notified the Secretary-General that it maintains records in an electronic format, accessible to all States Parties, attesting the existence of the certificate and enabling States Parties to discharge their obligations under paragraph 12.

14 If insurance or other financial security is not maintained in respect of a ship owned by a State Party, the provisions of this article relating thereto shall not be applicable to such ship, but the ship shall carry a certificate issued by the appropriate authority of the State of registry, stating that it is owned by that State and that the ship's liability is covered within the limits prescribed in paragraph 1. Such a certificate shall follow as closely as possible the model prescribed by paragraph 2.

Article 13

Time limits

Rights to recover costs under this Convention shall be extinguished unless an action is brought hereunder within three years from the date when the hazard has been determined in accordance with this Convention. However, in no case shall an action be brought after six years from the date of the maritime casualty that resulted in the wreck. Where the maritime casualty consists of a series of occurrences, the six-year period shall run from the date of the first occurrence.

Article 14

Amendment provisions

1 At the request of not less than one-third of States Parties, a conference shall be convened by the Organization for the purpose of revising or amending this Convention.

2 Any consent to be bound by this Convention, expressed after the date of entry into force of an amendment to this Convention, shall be deemed to apply to this Convention, as amended.

Article 15

Settlement of disputes

1 Where a dispute arises between two or more States Parties regarding the interpretation or application of this Convention, they shall seek to resolve their dispute, in the first instance, through negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements or other peaceful means of their choice.

2 If no settlement is possible within a reasonable period of time not exceeding twelve months after one State Party has notified another that a dispute exists between them, the provisions

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

relating to the settlement of disputes set out in Part XV of the United Nations Convention on the Law of the Sea, 1982, shall apply mutatis mutandis, whether or not the States party to the dispute are also States Parties to the United Nations Convention on the Law of the Sea, 1982.

3 Any procedure chosen by a State Party to this Convention and to the United Nations Convention on the Law of the Sea, 1982, pursuant to Article 287 of the latter, shall apply to the settlement of disputes under this article, unless that State Party, when ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, chooses another procedure pursuant to Article 287 for the purpose of the settlement of disputes arising out of this Convention.

4 A State Party to this Convention which is not a Party to the United Nations Convention on the Law of the Sea, 1982, when ratifying, accepting, approving or acceding to this Convention or at any time thereafter shall be free to choose, by means of a written declaration, one or more of the means set out in Article 287, paragraph 1, of the United Nations Convention on the Law of the Sea, 1982, for the purpose of settlement of disputes under this Article. Article 287 shall apply to such a declaration, as well as to any dispute to which such State is party, which is not covered by a declaration in force. For the purpose of conciliation and arbitration, in accordance with Annexes V and VII of the United Nations Convention on the Law of the Sea, 1982, such State shall be entitled to nominate conciliators and arbitrators to be included in the lists referred to in Annex V, Article 2, and Annex VII, Article 2, for the settlement of disputes arising out of this Convention.

5 A declaration made under paragraphs 3 and 4 shall be deposited with the Secretary-General, who shall transmit copies thereof to the States Parties.

Article 16

Relationship to other conventions and international agreements

Nothing in this Convention shall prejudice the rights and obligations of any State under the United Nations Convention on the Law of the Sea, 1982, and under the customary international law of the sea.

Article 17

Signature, ratification, acceptance, approval and accession

1 This Convention shall be open for signature at the Headquarters of the Organization from 19 November 2007 until 18 November 2008 and shall thereafter remain open for accession.

(a) States may express their consent to be bound by this Convention by:

(i) signature, without reservation as to ratification, acceptance or approval; or

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(ii) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(iii) accession.

(b) Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 18

Entry into force

1 This Convention shall enter into force twelve months following the date on which ten States have either signed it without reservation as to ratification, acceptance or approval or have deposited instruments of ratification, acceptance, approval or accession with the Secretary-General.

2 For any State which ratifies, accepts, approves or accedes to this Convention after the conditions in paragraph 1 for entry into force have been met, this Convention shall enter into force three months following the date of deposit by such State of the appropriate instrument, but not before this Convention has entered into force in accordance with paragraph 1.

Article 19

Denunciation

1 This Convention may be denounced by a State Party at any time after the expiry of one year following the date on which this Convention comes into force for that State.

2 Denunciation shall be effected by the deposit of an instrument to that effect with the Secretary-General.

3 A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, following its receipt by the Secretary-General.

Article 20

Depositary

1 This Convention shall be deposited with the Secretary General.

2 The Secretary-General shall–

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

(a) inform all States which have signed or acceded to this Convention of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession, together with the date thereof;

(ii) the date of entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention, together with the date of the deposit and the date on which the denunciation takes effect; and

(iv) other declarations and notifications received pursuant to this Convention;

(b) transmit certified true copies of this Convention to all States that have signed or acceded to this Convention.

3 As soon as this Convention enters into force, a certified true copy of the text shall be transmitted by the Secretary-General to the Secretary-General of the United Nations, for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 21

Languages

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

DONE IN NAIROBI this eighteenth day of May two thousand and seven.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments for that purpose, have signed this Convention.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

ANNEX

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF LIABILITY FOR THE REMOVAL OF WRECKS

Issued in accordance with the provisions of article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007

Name of ship	Gross tonnage	Distinctive number or letters	IMO Ship Identification Number	Port of Registry	Name and full address of the principal place of business of the registered owner

This is to certify that there is in force, in respect of the above-named ship, a policy of insurance or other financial security satisfying the requirements of article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.

Type of security ……

Duration of security ……..

Name and address of the insurer(s) and/or guarantor(s)

Name ……

Address……

…….

This certificate is valid until ……

Issued or certified by the Government of ……

……

(Full designation of the State)

© Government of Gibraltar (www.gibraltarlaws.gov.gi)

OR

The following text should be used when a State Party avails itself of article 12, paragraph 3:

The present certificate is issued under the authority of the Government of …….. (full designation of the State) by ……..... (name of institution or organization)

At……. On …….

(Place) (Date)

……..
(Signature and Title of issuing or certifying official)

Explanatory Notes:

1 If desired, the designation of the State may include a reference to the competent public authority of the country where the Certificate is issued.

2 If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.

3 If security is furnished in several forms, these should be enumerated.

4 The entry "Duration of Security" must stipulate the date on which such security takes effect.

5 The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

© Government of Gibraltar (www.gibraltarlaws.gov.gi)